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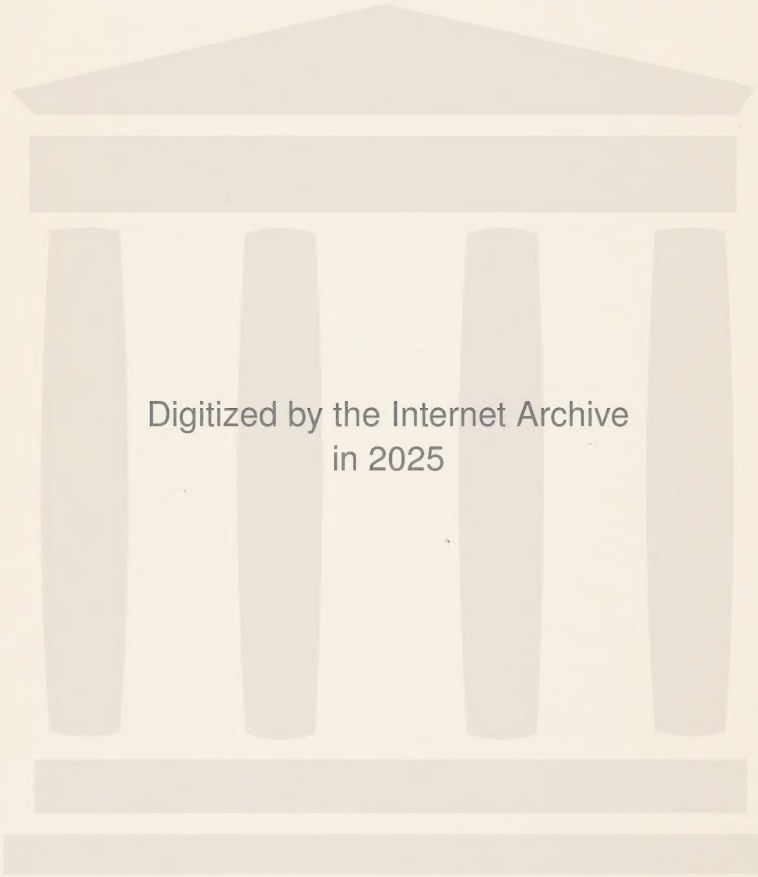
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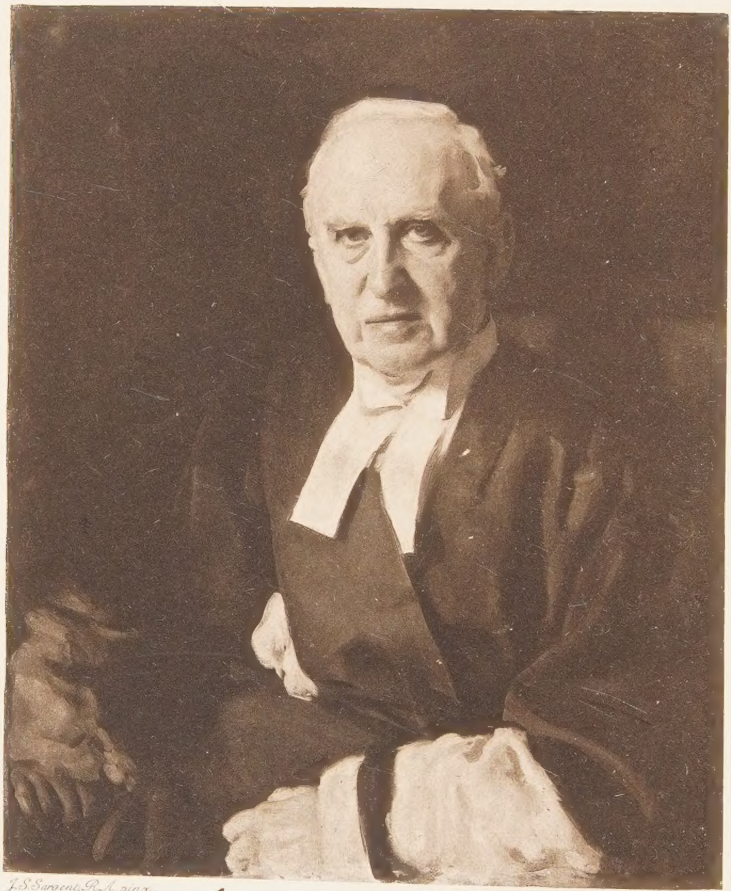
THE LIFE

OF

LORD RUSSELL OF KILLOWEN



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THE LIFE

OF

LORD RUSSELL

OF KILLOWEN

BY

R. BARRY O'BRIEN

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW

AUTHOR OF 'THE LIFE OF CHARLES STEWART PARNELL'

WITH A PORTRAIT AND FACSIMILES

NEW YORK

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PREFACE

I WISH to express my thanks to the family of LORD RUSSELL for the letters and papers which they have placed at my disposal in the preparation of this work

For the rest, the responsibility is not theirs, but mine alone. I know not whether I have succeeded or failed in my task. I do know that I have tried to write in good faith, and to produce a true and fearless biography of a man who was, above all things, true and fearless.

R. BARRY O'BRIEN.

November, 1901.

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LIFE

OF

LORD RUSSELL OF KILLOWEN

CHAPTER I

INTRODUCTORY

One day, seventeen years ago, I dropped into Charles Russell's chambers at 10 New Court, Lincoln's Inn. My own chambers were over the way at No. 2. We saw each other constantly at this period. Sometimes he would send across for me, sometimes I would come uninvited, either on business—political business—or to have a 'gossip.' This day I came to gossip. He was at luncheon. A fried sole and a bottle of Apollinaris, wedged in among briefs and papers, were before him. His wig was flung carelessly aside. He had just come in from Court. Received with the familiar cheery greeting, 'Well, my friend, what's the news?' I sat down and talked away. In moments of relaxation, be it said, he was fond of gossip; but never during the twenty years of our friendship have I known him to tell a scandalous story, hardly ever have I heard him say an unkind word of any one. If he disliked a man, he wiped that man out of his thoughts. 'A poor

creature' was the strongest expression of denunciation I have ever heard him use. But with it the very existence of the 'creature' seemed to have been forgotten. Scandal was repugnant to his virile nature, out of harmony with a character whose dominant feature was manfulness, and distasteful to a mind singularly simple and pure.

'I have been hearing some good stories about you lately,' I said. 'Indeed! what are they?' he asked with a half-humorous look. 'Here is one,' I replied. 'It is a story of the Northern Circuit. You were engaged in a case at Liverpool. It was an uphill case. The judge and jury were dead against you. The trial had lasted for two days. You had failed to shake the witnesses in cross-examination. You made no way. The case seemed hopeless. You were horribly irritable, and swore at every one. On the third day you began your speech. You spoke for nearly an hour without apparently producing much effect. Then the foreman asked a question which showed that at length you had staggered the jury. You answered the question. The judge did not like the answer and interposed. You faced the judge and stood by your guns. There was an altercation between you and the Court. It was the crisis of the case. After a hard fight you had got hold of the jury. The judge interfered to take them out of your hand. Would he succeed? That was the point. You were still arguing with him when your solicitor—an eminently respectable and even pious-looking man, with a black frock coat, kid gloves, and a white tie—he was solicitor, I believe, for half the county families in the district—rose and turning round whispered with great reserve, "Mr.

Russell, will you allow me——" "Damn you! sit down," said you in a voice quite audible to judge and jury. The effect was electrical. The solicitor sat down. The judge said no more. The jury collapsed. You then blazed away fiercely for another half-hour without interruption from any one. The judge delivered a Balaklava charge against you; but the jury gave a verdict in your favour without leaving the box. Now do you remember that scene?'

Russell: 'Not a bit. Who is your authority?'

I said, 'Oh, I won't give you my authority. He is a man who has a great admiration for you. He was in Court and saw the whole thing.'

Russell: 'Humph!'

I asked (laughing and using a familiar form of question in cross-examination), 'But you won't say it didn't happen? All your evidence comes to this, that you don't recollect.'

Russell (smiling): 'I have no doubt, my friend, that, whatever happened, the story has been embellished by you or your informant.'

I said, 'Well, I'll tell you another story.' He turned towards the fire, and I stood with my elbow on the mantelpiece, and went on:

'The case was in London. It was an appeal to the Court of Queen's Bench. The arguments began first thing in the morning. You were not present. The Court was with the other side up to luncheon time. You then put in an appearance just as the judges were leaving the bench. The junior Bar were clearing out, when you turned to the men in the front row and said, "Were any of you present when the case was argued below?" Then you spied the official reporter of the Court. "Ah!" said

you, "you were there." "Yes," said he, "but I did not take a very careful note." He wanted to go to his luncheon, and did not care to be buttonholed by you at that moment. "Where is your note-book?" said you; and then, without waiting for an answer, you pounced on the note-book which was lying on the desk. "Here it is: don't go." Finding that he was in for it, he resigned himself to his fate, saying, "I'll find the note for you." "I have found it," said you. "You write very carelessly." You then read the note, asked him questions, made mems on your brief—which was tied up and quite clean—it was clear that you had never opened it. By the time that you had cross-examined this man, and got out all he knew about the case, the judges returned. "Are you ready, Mr. Russell?" they asked. "Yes, my Lords," said you. You then argued for a couple of hours, turned the Court right round, got judgment, and walked out without giving back the man his note-book.'

Russell: 'That's a lie!'

I said, 'What is a lie—that you didn't give him back his note-book?'

Russell: 'Yes.'

I said, 'Well, think of the number of books of mine which you have never given me back.' At this he laughed almost heartily. I never knew him, even in his most unreserved moments, when it was not possible to turn a frown into a smile, if you only hit upon the right key. I continued: 'Every one says that your great quality is concentration. You fix all your thoughts on the subject or the man you are dealing with for the time. Then, when the business is over, you wipe everything connected with it from your mind. How often do you

talk to me here for an hour at a stretch about Irish history and politics! Then you say suddenly, "Now go." You take up a brief, and I have no doubt that you have lost all consciousness of my existence before I have got to the door.'

Russell: 'I see. Have you any more stories?'

I said, 'Yes, here is one about the theatre.'

Russell: 'Ha!'

'It was in your early days in London. You went to the play with a friend. He took you under his wing. He thought you were "raw," and did not know your way about. You went to the pit. There was a great crush at the door. You and your friend got separated in the crowd. He got in. But there was no sign of you. He looked round for you in his immediate vicinity—he had standing room, I believe, somewhere near the door—but you were nowhere to be seen. After another vain search he gave you up, coming to the conclusion that you had been crushed out. The play went on. The curtain fell on the first act. As usual he took a survey of the house during the interval. He had dismissed you from his mind by this time. You had got lost in the crowd. He was sorry for you, but there was nothing to be done. He swept the boxes, the stalls, the dress-circle with his glasses. Then he took a glance at the pit, and there you were in the centre of the front row, one of the best seats in the place. The comment of the man who told me that story was that you had been keeping in the centre of the front row ever since.'

Russell: 'Ha! Tell me, where do you pick up these stories?'

I said, 'At Groom's coffee-house. We call it the

Court of Appeal. We sit in judgment on the decisions of the Courts and on the judges.'

Russell: 'You don't apparently confine your attention to the judges.'

I said, 'No, we take in distinguished counsel. You are often discussed there. In fact, no man's character is safe at Groom's.'

Russell: 'On my word, it looks uncommonly like it. But, my friend, you seem to take an interest in collecting stories about me. Why?'

I said (laughing), 'Well, the fact is I intend to write your Life.'

Russell: 'How do you know, my friend, that you will survive me?'

. . . . . .

Sixteen years later I called on Lord Russell of Killowen at his room at the Royal Courts of Justice. It was luncheon time again. There was the same cheery greeting, the same plain repast, the same simplicity and homeliness, with an added dignity befitting his high station.

'I have come on a special mission to-day, Lord Chief Justice,' I said; 'I want you to do something for me.'

The Chief: 'Certainly, my friend—if it is reasonable. What is it' (then with an arch look)—'the Irish Literary Society?'

He knew that I took a keen interest in the Irish Literary Society. He had indeed become an original member and a vice-president of the society at my request. He occasionally presided at our meetings, and even took part in our discussions.

I said, 'No, quite a different thing this time. Do

you remember that I once said to you, many, many years ago, that I intended to write your Life?'

The Chief: 'No.'

I said, 'Well, I remember; it was at 10 New Court. I have a very distinct recollection of what you said.'

The Chief: 'What?'

'"How do you know that you will survive me?"'

The Chief (laughing): 'And a very proper thing to say.'

I continued: 'Well, I am on the same mission still, and I want you to help me. I have a precedent for what I ask.'

The Chief (smiling): 'What is your precedent?'

I said, 'Busch asked Bismarck to help him, and Bismarck did.'

The Chief (archly): 'Was the Life a success?'

'Yes.'

The Chief: 'I mean from Bismarck's point of view?'

I said, laughing, 'Oh, that does not matter; the only point of view is the public point of view—and the publisher's.'

The Chief (smiling): 'Don't you think that the best thing I could do would be to write my own Life from my own point of view? But seriously I really don't know what you can write about me. I do not think that there is anything of interest in my life, anything really worth writing about. I am speaking quite frankly, and saying exactly what I mean.'

'Well,' I said, 'will you let me take my chance for the interest? I only want to talk over your life with you, to talk over your cases. May I come in at luncheon time when you are free?'

The Chief: 'Certainly, my friend; I shall be always glad to see you and to have a talk, whatever we talk about.'

From that time onward I saw him frequently. We talked over his life; his early days at Newry and Belfast; his career at the English Bar; his most famous cases. I saw him for the last time in June 1900—a few days before he went on circuit. He then looked remarkably well. I had seldom seen him look better. I could not help saying so.

'Yes,' he said, 'I am feeling very well, thank God. There is no reason why I shouldn't. I had a rest, and some days in the country.'

I had given him a list of cases in which he had been engaged to look through, and I thought—though I ought to have known him better—that he might have left it at home, forgotten all about the subject.

'I suppose,' I said, 'that you have not got the list of cases I gave you; I have another' (putting my hand in my pocket).

'Indeed I have,' he replied, holding the paper towards me that I might see the notes he had made. It was so like him, doing thoroughly everything, great or little, which he had promised to do. We talked about the cases. He did not—a thing very unusual for him—give his mind very much to the subject in hand. Seeing this I said, after a while, 'Well, I think, Chief Justice, I shall go away now' (smiling). 'You have something else on your mind to-day—the Commissions Bill?' He laughed and said, 'You are quite right. The Commissions question is giving me a good deal of trouble and anxiety. It is taking up a good deal of my time too.'

I then said, 'I won't come again until after the vacation.' 'Very well,' he said, 'I think that will be best. I won't forget you. I will think all those cases over again, and I will try to remember some more.' Then, smiling, 'I'll come back quite ready for cross-examination.' These were the last words I heard him speak.

Some weeks later I was in the neighbourhood of that Killowen which he loved so well, when the news of his illness reached me. I made light of it. I thought he had been upset for the moment by the extreme heat and the bad atmosphere of the Assize Court, and that in a few days he would return to duty. I called upon his sister—Mother Emmanuel—at the convent in Newry. She was anxious about him. When I spoke lightly of his attack she said, 'I don't know. The end sometimes comes very suddenly.' I went to Belfast. There, a week later, I read in the newspapers that the doctors had decided to perform an operation. Even then (though I had been warned by a private letter that the illness was more serious than I had supposed) I could not bring myself to think that any danger was to be apprehended. Next day I read that the operation had been successfully performed, and that Lord Russell had stood it well. The bulletin seemed to me to be highly encouraging. I went for the day to the County Down. On returning to the terminus of the Belfast and County Down Railway that evening, the friend who accompanied me bought an evening paper, and, on opening it, exclaimed with dismay, 'Lord Russell is dead.' It was a terrible shock. The thing seemed unbelievable. The man whom I had left a month before in robust health, full of life and vigour, gone. We walked into the streets.

There were the newspaper placards with the fatal scroll, 'Lord Russell of Killowen dead.' The little newspaper boys shouted, 'Death of Lord Russell of Killowen.' People in the public conveyances talked of nothing else. 'Terrible news,' they said; 'a great man—a great Irishman—carried away at the very height of his career.'

Forty years before, he had left Belfast, a young man, unknown, untried. He had fought his way to the front rank in his profession. He had become the one dominant figure—the most striking personality on the English Bench. His name was known in America, in the Colonies, on the Continent. And now that active brain was at rest for ever; that big heart, so easily touched, so warmly responsive to every call in the name of justice and humanity, would beat no more. From Belfast he had set out to brave the storms of life, to seek fortune—to find success, honour, fame—and now Belfast rang with the tragic news of his sudden death.

Next day I hovered around the haunts associated with his early years. There at 73 Donegal Street is the house in which he began his career—the office downstairs, above a sitting-room and two bedrooms. Hard by is Waring Street; there, at No. 14—then the Victoria Hotel—on the night before he left Belfast to begin life anew in England, a party of forty young friends met to give him a dinner and a send-off. 'I am the only one of the forty now alive,' said my companion, 'and little any of us thought that night that Charles Russell would die Lord Chief Justice of England.'

Near Belfast is the little village of Randalstown. It was there, walking in Shanes Park with the young

girl—she was only seventeen—who was destined to share his fortunes, to lighten his burdens, to crown his triumphs, that he, cheered and encouraged by her, formed the determination to cast his bread on English waters. Assuredly there is something dramatic in the story of this young man, who, going forth into the wilderness without, so far as one can see, a ray of hope save what was kindled in his own stout heart, outstripped all competitors in a race where none but the fleetest ran, and reached the goal—a signal example of what genius, allied with faith, courage, and perseverance, can do.

CHAPTER II

THE RUSSELLS OF DOWN

Lord Russell of Killowen was fond of calling himself a Celt. In a speech one night at the Irish Literary Society he spoke of 'we Celts.' Next day I saw him in his room at the Courts. I said, 'You called yourself a Celt last night.'

The Chief: 'Certainly.'

I said, 'But I don't think you are a Celt.'

The Chief: 'Then what am I?'

I said, 'You are a Norman.'

The Chief: 'Are not the Normans Celts?'

I said, 'No, they are Teutons.'

The Chief: 'Well, I don't pretend to know much about it. My brother Matthew knows more of these things than I do. But Lord Dufferin—who is an authority—made a speech the other day in which he said that the Russells were' (with a smile) 'I won't say a family of ancient renown—but certainly an ancient family.'

I said, 'Yes, an ancient family, but did he say Irish?'

The Chief: 'I should think that was what he meant. He said we were one of the oldest families in the County Down.'

I said, 'The Russells were Normans. They settled in Lecale in the twelfth century; they fought and inter-

married with the natives, seized territories, built castles, and held their ground.'

The Chief: 'Well, my friend, my mother was a Mullan. I should think that is Irish enough even for you. You say the Russells—whatever they were—intermarried with Celts. Well, so be it. We may have got our Celtic blood in that way.' Then, standing up, turning his back to the fire, and looking with that characteristic, open, searching expression: 'I have got plenty Celtic and Irish blood in my veins, my friend, though' (with a twinkle in the eye and an arch smile) 'I am not descended from Brian Boru.'

The Chief was quite right. He had plenty of Irish and Celtic blood in his veins, though he came of Norman stock.

The story of the Russells of Down is curious and interesting. It is also illustrative of the vicissitudes of Anglo-Norman and Irish families.

In the reign of Henry II, Robert de Russell or De Rosel (a cadet of the house of Kingston-Russell, whence the ducal house of Bedford) accompanied Strongbow to Ireland. On the death of Strongbow he went with De Courcy to Ulster, and, as a reward for his services in that province, was granted lands in the barony of Lecale in the County Down. Passing over his immediate descendants we come in 1316 to Thomas Russell, who was created Baron of Killough, a little seaport in the east of the county. From Thomas Russell the first, to James Russell the eighth Baron of Killough, the line of succession was unbroken. Almost all these Russells intermarried with the Celts. James, the second Baron, married a daughter of Magennis; James, the third, a daughter of MacCartan; George,

the fourth, a daughter of O'Neil; William, the fifth, a daughter of MacDonnell of the Glens; John, the sixth, a daughter of Savage of the Ards; Henry, the seventh, a daughter of Macan; and James, the eighth, a daughter of Savage of Portaferry. On the death of James, in the reign of Queen Elizabeth, the Russells branched off into four divisions: (1) the Russells of Killough; (2) the Russells of Bright and Ballyvaston; (3) the Russells of Rathmullan; and (4) the Russells of Ballystrew and Coniamston. I shall take these branches in detail.

1. *The Russells of Killough.*—George, the ninth Baron, died in 1596, leaving three sons: Nicholas, John, and James. In 1620 Nicholas, the eldest, with the consent of his son Patrick, sold the lands of Killough to John, who became the twelfth Baron. He was also the last; for in the Cromwellian wars he adhered to the national cause, and, in consequence, the lands of Killough were confiscated. When the wars of the revolution came, the descendants of John, stripped of their territories, were still to be found upon the side of their country. One of them fell at the battle of the Boyne, another at the battle of Aughrim. In the eighteenth century the last of the descendants of John died without issue, and the Killough branch, as represented by them, became extinct. The representation was, however, as we shall presently see, revived in the house of Ballystrew and Coniamston.

2. *The Russells of Bright and Ballyvaston.*—In the reign of Elizabeth we find a Christopher Russell settled at Bright Castle, and possessing the lands of Ballygallagh and Ballyvaston. He died in 1619, and was succeeded by his son Richard, who died without issue. His

daughter Mary married Phelim Magennis, and her son Brian succeeded to the Ballyvaston estates. Brian died without issue and was succeeded by his sister Eleanor. Eleanor married Captain Hamilton, the ancestor of the Hamiltons Earls of Clanbrassel and Limerick. And so the Russells of Bright and Ballyvaston became merged in another household. They are, I believe, to-day represented by the Earl of Roden, the descendant of the Hamiltons.

3. *The Russells of Rathmullan.*—The Russells of Rathmullan owned the parish of Tyrella. In the war of 1641 they too threw in their lot with their nation. George Russell of Rathmullan was a member of the General Assembly of the Confederated Catholics who sat at Kilkenny between 1641 and 1650. In 1650 he took the field, and fell at the battle of Skerfolas. Then the lands of Tyrella were confiscated, and the Russells of Rathmullan passed away.[1]

4. *The Russells of Ballystrew and Coniamston.*—The line of the Russells of Killough is still preserved in the family of the Russells of Ballystrew and Coniamston. James Russell, the son of George, ninth Baron of Killough,[2] became possessed of the lands of Ballystrew and Ballyvaston, and died in 1605. He was succeeded by his son George, who died in 1645, leaving a son and

[1] About 1820 a silver chalice was found by some workmen among the ruins of the old Catholic Church of Rathmullan. On it were inscribed these words: 'This Chalis was made by George Russell of Rathmolin, Esqre., and Marie Taafe his wife, Anno 1641.' The chalice was sent to Dr. Russell, the President of Maynooth, an uncle of Lord Russell of Killowen. On the death of Dr. Russell, it passed into the hands of his niece—the daughter of his sister—Miss Lily Kelly of Killough, who still possesses it, and through whose courtesy I have had an opportunity of seeing it.

[2] *Ante*, p. 14.

heir, Patrick. Patrick fought upon the Irish side in the Cromwellian wars and fell in battle. His lands were of course confiscated, and his son Patrick was dispossessed. In this case, as in others, the confiscations of Cromwell were confirmed at the Restoration. Indeed, some of these lands were actually handed over to the Duke of York, afterwards James II. Like so many of the Russells, Patrick Russell the elder had married a Celt, Mary, daughter of Cahil O'Hara of Crehilly. She now resolved that the inheritance of her child should not be lost without a struggle. She determined to appeal to the King (Charles II) in person, and to plead the cause of her house at the foot of the throne. There is still a tradition in the family that Mary Russell walked from Holyhead to London, flung herself before the King, and asked for justice.

Charles was not proof against her prayers and remonstrances. The forfeitures of Cromwell were cancelled, and young Patrick Russell was restored to the lands of his fathers. He was succeeded by his son Valentine in about 1683.

Once more Ireland was in the throes of war, and once more the Russells were in the thick of the fight, standing by faith and fatherland. The familiar results followed: defeat and confiscation. In 1696 Valentine Russell was outlawed for high treason, and his lands were forfeited. An appeal was made to the Court of Claims in behalf of his son Patrick, a minor, but in vain. Then a chivalrous friend interposed, and, in this case as in many another, the inheritance of an Irish Catholic was saved by the manly action of an Irish Protestant.

In 1703 the lands of Ballystrew and Coniamston were

put up for sale by the trustees of the forfeited estates. They were bought in by General Echlin of Rush in trust for the minor. The trust was faithfully kept, and in time Patrick Russell came into his own. He died in 1759, and was succeeded by his son Patrick, who left no issue. Patrick's brother Thomas followed. His son and successor, Patrick Henry Russell, died in 1840, and was succeeded by his son, Thomas John Russell, who married, first, Marie Christina, daughter of the Marquis de St. Gery, and secondly Josephine, daughter of the Marquis de Flamerens. His son, Henry Russell, who ranks in the French nobility as Count Russell, is the present representative of the Russells of Killough.

Lord Russell of Killowen was descended from a collateral branch of the Russells of Ballystrew. In 1749 George Russell of Ballystrew married Elizabeth Norris. Their son, Charles Russell, became a corn merchant in Killough, and died in 1828. Among his children were Charles, who entered the Church and died president of Maynooth College, and Arthur, the father of the subject of this memoir.

Dr. Russell was a remarkable man. Born in 1812, he entered Maynooth in 1826, and was appointed professor of humanities in 1835. Ten years later he filled the chair of ecclesiastical history, and in 1857 became president. He was an intimate friend of Newman, and, it is said, exercised not a little influence on the Tractarian movement. 'My dear friend Dr. Russell, President of Maynooth,' Newman wrote, 'had perhaps more to do with my conversion than any one else. I do not recollect that he said a word on the subject of religion. He was always gentle, mild,

unobtrusive, uncontroversial. He let me alone.' Dr. Russell was a member of the Historical MSS. Commission, and, assisted by Prendergast (author of the 'Cromwellian Settlement in Ireland'), he prepared a report of the Carte MS. in the Bodleian Library. He also with Prendergast compiled the State Papers Ireland, 1603–1625. He was associated with Cardinal Wiseman in editing the *Dublin Review*, and among other literary works wrote a 'Life of Cardinal Mezzofanti,' which ran through two editions. He died in 1880 at the same age, curiously, as his illustrious nephew and namesake.

Arthur Russell went to sea, and in time became master of a ship of his own. He fell in love with Margaret Mullan, the daughter of a Belfast merchant, but his suit did not prosper.

Margaret married John Hamill, a Belfast merchant. On the death of Mr. Hamill (1820), Arthur Russell renewed his suit, and, in 1825, Mrs. Hamill became his wife. Then he left the sea, bought a brewery at Newry, and made that town his home.

All the time that I have been writing this chapter Lord Russell has been present to my mind; and there were moments when I seemed to hear him rapping with his pencil on the table and saying: 'Enough pedigree, come to the point.'

CHAPTER III

BOYHOOD : YOUTH

Newry, the capital of the County Down, is picturesquely situated in the 'gap of the North.' Lying in a valley on the Leinster frontier, the breezes from the Mourne and Carlingford mountains sweep over it. Carlingford Lough flows almost to its quays, and the dialects of three counties may be heard in its streets. It is essentially a border town. The little river Glanrye, flowing through it into Carlingford Lough, marks the boundary between Down and Armagh, the Lough itself the boundary between Down and Louth. On the Down side of the river is the larger part of the town of Newry. On the Armagh side is a district now called Queen Street, but which seventy years ago was known by the name of Ballybot; and at Ballybot, on November 10, 1832, Charles Russell was born. He was therefore, technically at all events, right in saying, 'I am an Armagh man;' though Down, with good reason as we have seen, claims him for her own.[1]

It is curious to note the number of eminent men who sprang up in this northern district between the years 1812 and 1832. Born in the County Derry in 1815, John Mitchel, the most brilliant of the Young Irelanders,

[1] By a recent Act of Parliament the Ballybot district has been joined to the County Down.

the most perfect master of the English language whom Ireland has produced during the century, was reared in Newry within a stone's throw of the house where Charles Russell first saw the light. At Loughorne, near Newry, John Martin, another Young Irelander—a man of sterling patriotism and the greatest amiability of character—was born in 1812. In Newry John O'Hagan, one of the most gifted of the contributors to the *Nation*, and afterwards the first judge of the Irish Land Court, was born in 1822. At Carlingford Thomas Darcy Magee, another brilliant Young Irelander, who died Prime Minister of Canada, was born in 1825. The town of Monaghan is about eighteen miles from Newry as the crow flies, and there Charles Gavan Duffy, the founder of the *Nation*, and afterwards Prime Minister and ultimately Speaker of the Legislative Assembly in the Colony of Victoria, was born in 1816. Belfast is about thirty miles from Newry, and there Thomas O'Hagan, the first Catholic Lord Chancellor of Ireland since the revolution, was born in 1813. At Cultra, in the County Down, Hugh Cairns, Lord Chancellor of England (1868, 1874–80), was born in 1819. At Woodland Castlewellan in the same county, Hugh Lam, Lord Chancellor of Ireland (1881-83) was born in 1818. Lord Dufferin, one of the most distinguished diplomatists who ever served England, who happened to be born in Florence in 1826, is also a County Down man. The youngest of this little band of northerners (who were destined to play so varied and so distinguished a part in the world) was Charles Russell, the hero of my story.

The Russells made a numerous household at Ballybot. First there were Mrs. Russell's children by her first

marriage—the Hamills, five all told. Then came the young Russells—Mary, Elizabeth, Katharine, Sarah, Charles, and Matthew.

Mr. Russell was not rich: he was not poor. The children were brought up in comfort, but with simple frugal tastes. Mrs. Russell was the head of the house. She was a handsome, clever woman, clear-headed and strong-willed, having excellent business qualities, and possessing a composure and dignity of character which her letters to a great extent reveal. Mr. Russell was a gentle, amiable man, warmly attached to his children, whom he would have possibly spoiled by tenderness but for the discipline of their Spartan mother. About 1837, having fallen into ill-health, he made up his mind to leave Ireland altogether, and to spend the remainder of his days in France. But this project was soon abandoned, and the family continued to live at Ballybot until 1838. Then it was decided to change from town to country, and, the brewery having been leased on advantageous terms, the Russells moved to their new home at Seafield House, Killowen—a charming spot on Carlingford Lough, close to Rostrevor, and commanding a glorious view of the mountains and the sea. There Charles Russell grew up, boating in the Lough, climbing the mountains, mingling with the fishermen on the shore and the peasants on the hill-side, loving the place and its people, leading a simple, happy, hardy life.

In 1839 his education began under the direction of a clever governess, Miss O'Connor, who lived with the family until 1844. All this time he was a handsome, bright-eyed, serious-looking lad, gentle as a rule, but always

sturdy, and on occasion defiant. One day the servant threatened to report him to the governess. 'Do,' said he, 'I'll chalk the way for you;' and, suiting the action to the word, he got a bit of chalk and drew a line from the kitchen to the school-room. He was fond of reading, and bombarded his father with questions about the words and things which he did not understand. His father told him to get a dictionary. The dictionary was got. On a certain occasion the family wanted it. It could be found nowhere. At length Charles was discovered lying in a field, reading the 'Lives of the Saints' with the dictionary by his side. He had seized the work of authority and made it his own. One day he, his brother Matthew, and a very little boy named Patrick Murphy (afterwards known to fame—for he was exhibited in nearly all the principal towns of Europe—as 'Murphy the Irish Giant') were playing in a boat on the shore. The tide came suddenly in, and the boat (which had neither sails, oars, nor rudder) drifted off and was quickly blown out towards the sea: Murphy cried, Matthew prayed, and Charles whistled. The whistling was heard, and the young scapegraces were rescued.

We have a vivid picture of these early days at Killowen from the pen of Charles Russell's sister Sarah, now a nun—Mother Emmanuel—in the Convent of Mercy, Newry, writing to her brother Matthew:

'Seafield was a small farm about sixteen English acres. The house was old-fashioned and comfortable. The fields lay sloping to the sea-shore and the midday sun. Behind us rose the Mourne Mountains. Six years and a half of peaceful happy life were spent in that still loved and well-remembered home. I can recall our school days.

Miss O'Connor's authority was absolute, and we were made to respect her as we would our parents. Lesson time was, as a rule, never interfered with. But sometimes, on fine sunny days, a knock might be heard at the school-room door, and our dear father would come in to ask Miss O'Connor to allow us to go out into the meadows, to pull the yellow flowers of the dandelion before their thistle-winged seeds were ready to fly away to produce a more beautiful crop, or to do some little bit of weeding in the garden. How delighted we were to start away, even though this half-holiday meant a real hard afternoon of work.

'A well-filled week of lessons was followed by the day of rest, and how did we keep Sunday? Mamma was most particular on that point. No cooking that might be done on Saturday was allowed. Each Sunday had Sunday's fare. We four young people—that is, Kate, myself, Charlie, and Matthew—sat at table with our seniors, dressed in our very neatest and best.

'After breakfast we got ready for Mass, to which some of us drove in a roomy inside car. How solemn and holy everything was, while the calm that seemed to me to lie over the whole country was like the sensible presence of God. Many a time since I have recalled those Sundays, and the words came back to me,

> With heart at rest within my breast,
> And sunshine on the land.

'After dinner each of us had to read a chapter of the Bible aloud, while mamma and dada listened respectfully. The piano was never heard except to accompany a hymn; no game of cards was allowed; but all sorts of childish

games, such as riddles, conundrums, stories, &c., made our evening cheerful.

. . . . . .

'Each season had its pleasures. In the winter evenings some one read a story aloud while the rest listened—it was most frequently our dear gentle father who read. How well I remember, when some touching, high-minded, magnanimous action was related, his voice would falter and break, and he would be silent. How kind he was! No one ever heard a hard word from him. If any of us did wrong and mamma showed her displeasure, he would take the culprit's part (if penitent), and say, "Margaret, let bygones be bygones," or "Forget and forgive."

'Mamma had a lovely touching voice, and Moore's "Melodies" were her favourite songs; so we all learned early to love our great national poet. The public events of the day were talked about; sometimes the newspapers were read aloud. In the stirring times of O'Connell's monster meetings our grand Liberator was the figure ever before us. About this time [1843–44] it came to be my turn to go with mamma on her journeys to Dublin, and my whole ambition and real earnest prayer was to see O'Connell. On the occasion of one of our visits, mamma gratified my wishes and brought me to Conciliation Hall. Twice in the streets we saw O'Connell; and I remember how he raised his hat in acknowledgment of mamma's respectful bow. When the State trials were going on, every line in the newspapers was read or listened to by us all with intense interest.

'O'Connell's imprisonment was a subject of family mourning, while his liberation—September 6, 1844—brought universal exultation. I have heard my mother tell

stories of '98. Her father was a captain of a merchant ship: he was drowned at sea. Her mother married a second time—Mr. Moore of Belfast. One day, in 1798, she was standing at the door of her house—my mother was then seven years old—with a baby in her arms, when a soldier coming up spoke rudely to her. Mr. Moore was standing by. He expostulated with the soldier, whereupon the latter made a lunge of the bayonet at my grandmother, and drove the point through the baby's eye. The child was killed on the spot: then the soldier ran away. Mr. Moore followed him to the barracks and told what had happened. But all the satisfaction Mr. Moore got was that he was sent to gaol for six weeks. My mother often told us this story, and other stories of those terrible times.

. . . . . .

'We were rather piously inclined, all of us, and we had a little association of our own, and conferences on holy subjects. I remember the subject proposed in one of them by Kate was, what was the best way to become a saint, and the unanimous opinion was, to do our daily duties as well as ever we could, and to do all in the presence of God to please Him. A wise one surely, and containing as high spirituality as I, for my part, have ever learned since. We had to read each day the "Lives of the Saints" in Alban Butler, let them be long or short.

'In 1842 dear Uncle Charles gave each of us a Roman Missal, and I may date from that my first realisation of the awful Adorable Sacrifice of the Mass. Being now able to follow the priest in the very words he used, the greatness of our privilege in not only assisting at those

awful mysteries, but in being even joined with him in the offering up of the Sacrifice (in our degree), came home more clearly to us.

'In 1848 Kate asked mamma's permission to enter religion; her inclinations led her to the Order of Charity (Irish); but mamma and our holy old Bishop, Dr. Blake, who had been the true warm friend of our holy foundress, Mother Macaulay, preferred she should be a Sister of Mercy. It was in the vacation time (I was at school then) which we spent in Killowen that Kate first told me of her wish to leave home.

'She told me then of her great desire to be a Sister of Charity, and how it was God showed her what He intended her to be.

'You remember well our last climb up Slieve Ban mountain with her. We rose about five o'clock and we were standing beside the Big Stone when the six o'clock Angelus was said by us three for the last time together at home.'

Thus it will be seen that the young Russells were brought up in a Catholic and an Irish atmosphere, and that at an early age their minds were familiarised with the truths of their religion and the history of their country. It is curious and interesting to note that all the children except Charles entered religion. The three sisters became nuns. Kate (in religion Mary Baptist) joined the Order of Mercy, and when a branch was established in San Francisco in 1854 went thither, and died Reverend Mother of her Convent. Elizabeth (Mary Aquin) joined the same order and died in 1876. Sarah (Mother Emmanuel) also became a Sister of Mercy, and Reverend Mother of the Convent at Newry, where she

still lives. Matthew became a Jesuit, and now resides at University College, Dublin.

In 1844 Mrs. Russell went to stay for some months in Belfast, taking all the Russell children with her, in order that they might have such educational advantages as residence in a big town would afford. Charles was first sent to a day school—Harkin's School in Castle Street—and afterwards, in August, to St. Malachy's College. There he seems to have worked satisfactorily, for we find his father writing to Mrs. Russell on January 25, 1845:

'Tell Charles I see a great improvement in his last note. I hope he will continue to improve.

'I am particularly pleased to find that he has been so successful in his classes. All he wants is application, for I think he has the abilities; so the fault must be his own if he don't prove himself clever.'

While at St. Malachy's, Russell and another boy of the same age (now a popular ecclesiastic and a writer of historical books) were tyrannised over by a boy three years their senior. This youngster came from Castlewellan, and compelled his 'henchmen' to call him 'Lord Castlewellan.' One day, in a spirit of revolt, they called him 'Lord Castlevillain,' and got soundly thrashed in consequence by the remorseless young despot.

In the spring of 1845 Mr. Russell, whose health had been steadily declining, grew seriously ill. Mrs. Russell hastened to his side, and there remained, a fond and constant nurse until, with the word 'Margaret' on his lips, he passed quietly away on May 28.

In May 1845 Charles was withdrawn from St. Malachy's, and sent to another day school—Nolan's school in Corry Square, Newry. In the following December the

family left Seafield and returned to their old house at Ballybot.

In September 1846 Charles went to St. Vincent's College, Castleknock, Dublin, staying there until July 1847, when his school and college days ended. His record at Castleknock is creditable rather than distinguished. According to the college register, he obtained first place in his class in the December examinations for 1846. At the Midsummer examinations of 1847 he took third place ; Richard (now Colonel) Irwin was first, and Gerald (now Monsignore) Molloy second. Of those Castleknock days Monsignore Molloy writes :

'Charles Russell, Colonel Irwin, and I were in the same class. Colonel Irwin was then considered the cleverest boy in the school, and far more gifted than Charles Russell, who was rather regarded as plodding than pushful. At the same time, those who knew him well had no doubt that he would achieve success in life if he got the chance.'

Colonel Irwin writes : 'I remember Charles Russell well as a boy, having been in the same class with him. He was then tall for his age, with a fresh complexion and a bright pleasant face, indicating the happy possession of the gifts of good health, good humour, and good temper as well as intelligence. He seemed to me to have great confidence in his own powers, without any trace of presumption or self-sufficiency ; but with a very resolute determination to make the most of his undoubted abilities. Though full of courage and spirit, he was not quarrelsome, and I do not think that he ever wilfully annoyed or offended any of his companions, by whom he was universally liked.'

He came home in the midsummer of 1847. About the end of the year he was sent to the office of a firm of solicitors (Hamill—his step-brother—& Denvir) in Newry, and in February 1849, having reached the proper age, he was articled to Mr. Cornelius Denvir.

Charles Russell now—1848–52—mingled in the life of the little border town, and for the first time, perhaps, began to show signs of the stuff that was in him. He started a debating society, took a keen interest in politics, and made himself felt among his young companions. They were trying and stirring times. The dark shadow of famine was upon the land, and the storm of revolution beat fiercely around. Charles Russell fell under the influence of the Young Ireland movement.

The writings of Thomas Davis were the source from which he drew political inspiration. One sentence of the brilliant Nationalist leader was always on his lips: 'In a climate soft as a mother's smile, on a soil fruitful as God's love, the Irish peasant mourns.' He was also fond of repeating the well-known verse:

> And oh! it were a gallant deed
> To show before mankind,
> How every race and every creed
> Might be by love combined—
> Might be combined, yet not forget
> The fountains where they rose,
> As fed by many a rivulet,
> The lordly Shannon flows.

In more prosaic ways he made himself useful. Dr. Cahill, a well-known lecturer, delivered a course of lectures on astronomy under the auspices of the Royal

Dublin Society. The managing committee engaged the services of young Russell to help them in carrying out the arrangements ; and so well did he acquit himself at his post that the committee presented him with a large illustrated volume—'The Gallery of Nature,' by the Rev. Thomas Milner—a book which he religiously preserved to the end of his days.

In 1851 the Newry Institute offered a prize for the best essay on 'The Age we live in : its tendencies and exigencies.' Charles Russell won the prize, and had to read his essay in public—a proceeding of which his mother highly disapproved. Writing, on December 31, 1851, to a friend, she says :

'I wish you were in Newry to-day, that you might give your countenance to my son Charles at the delivery of his essay in the Assembly Rooms. You heard, I suppose, that the Newry Institute (of which Charles is a member) proposed a prize for the best essay on "The Age we live in : its tendencies and exigencies." The prize was adjudged to him, and a request made that he would read or deliver it in public for the benefit of the library fund of the Institute. He could not very well refuse to comply, but I think it was scarcely kind or judicious to ask so young a lad to come before the public as a lecturer. It is too trying an ordeal, and may expose him to the charge of presumption, which, thank God, he does not deserve, for it is with great reluctance he does so. But it is a duty imposed upon him, and I hope he will discharge it with credit.'

He did 'discharge it' with characteristic coolness, pluck, and success. The chair was taken by one of his Young Ireland companions, who says :

'I was very nervous, and arrived late. The moment I entered the room the gas went out—a catastrophe which increased my nervousness. Russell was in good time, and as impatient and cross as the devil at my want of punctuality. When the gas was relit I took the chair and the performance began. I well remember Russell's opening sentence. "Ladies and Gentlemen," said he, pointing to me, and in allusion to the gas accident, "the entrance of a great luminary extinguished the lesser lights!" He then delivered his lecture, which went off right well.'

While an apprentice, Charles Russell was occasionally consulted on 'legal points' by the neighbours around who wanted advice, but did not want to pay for it.

Once his opinion was sought in a grave crisis. A landlord in Killowen had enclosed a space (previously regarded as commonage), building a wall around it. The people in the district resented what they looked upon as an invasion of their rights. Charles Russell was consulted. He said that the landlord's conduct was unjustifiable. But the landlord disregarded all remonstrances, declaring his determination to do what he liked with 'his own.' One day a large concourse of people assembled in the neighbourhood of the enclosed commonage. Charles Russell went to 'look on.' Suddenly the landlord, accompanied by his myrmidons, was seen in the distance. The peasants awaited their arrival on the scene, and then, with great coolness and deliberation, and without uttering a word, tumbled the wall to the ground. It was never raised again.

Russell did not wish to be a solicitor. From the beginning his desire was to go to the Bar. Soon after the lecture at the Newry Institute the Rev. Daniel Bagot,

Protestant Dean of Dromore (who was present), wrote to him, urging him to read for the Bar. This letter, and an interview with the Dean, roused into activity the idea which had already been slumbering in his mind. But his mother and step-brother discouraged his youthful ambition. They were cautious. The Bar was risky: the other branch of the profession was safe. Such was their view, and Russell, yielding to their wishes, worked out his apprenticeship. But he never abandoned the idea of going to the Bar. He bided his time. In later years he would say, 'I was always bent on going to the Bar. My family did not like it. My family' (laughing) 'did not have as high an opinion of me as they ought to have had.'

In March 1852 Mr. Denvir died, and in the following September Charles Russell's articles were transferred to Alexander O'Rourke of 14 Donegal Street, Belfast. Then he left Newry, and took up his abode in rooms at the top of O'Rourke's office. There he worked out the remaining years of his apprenticeship.

It was during these years that the friendship—destined to last a lifetime—between him and the Mulholland family sprang up. Dr. Mulholland was a physician in Belfast. He had married a Miss Coleman. Her mother and Mrs. Russell were old friends. It was therefore natural that the young people should quickly foregather. The Mulholland children were younger than our hero, the three eldest being Ellen (afterwards Lady Russell), Rosa (afterwards Lady Gilbert), and William (now a County Court judge in Staffordshire).

When Charles Russell left Newry to take up his abode at O'Rourke's office, he found Dr. Mulholland's house a second home. Lady Gilbert, herself a charming

writer of verse and prose, has given us a pleasant sketch of those old and happy days:

'My first recollection of Charles Russell is seeing him walk into the drawing-room of our house in Belfast, and he comes before me still as I saw him then. His figure was tall, square-shouldered, and splendidly set up, the head noble and striking, crowned with a curly crop of crisp chestnut hair. The brow and eyes were his great distinction, the whole face square and powerful, the nose well chiselled, the mouth rather large and full of strength. The dominating brow was pale as ivory, and the penetrating grey eyes were alive with transparent light and sweetness. Although it was a grave serious face, the frequent and singularly charming smile was all the more fascinating when it appeared.

'I was then about eight or nine years old, I think, and I was sitting on a stool beside my mother, learning to knit a stocking. He asked me if I would knit him a pair of stockings. These were the first words I remember ever hearing him speak. My next particular memory of him is of learning by heart, at his desire, a piece of poetry, "The Cross in the Wilderness," by Mrs. Hemans, and repeating it to him aloud.

'A visit which I paid to Killowen in my eleventh year is an era in my life. Mrs. Russell came to Belfast one day, intending to take Ellen away with her; but, my sister being with our aunt in Randalstown, I was carried off to Killowen Point, where the Russells were spending the summer months. There I made acquaintance with the first grown-up young people I had ever known, and I found them delightful. Their simplicity and their high ideals, their kindness and charity seem to me now, look-

ing back, as most remarkable. Charles paid a flying visit to Killowen while I was there. I remember walking with him on the mountain against the breeze, repeating aloud Davis's poem, "Sweet and Sad," which at his desire I had learned by heart to "say" to him. He echoed the words, and I remember the emphasis with which he gave forth the stanzas:

'Tis sweet to climb the mountain's crest,
And run like deerhound down its breast;

. . .

And sad it is when prison bars
Keep watch between you and the stars.

But 'twere better be
A prisoner for ever
With no destiny
To do or to endeavour—
Better life to spend
As martyr or confessor
Than in silence bend
To alien or oppressor!

'The deep feeling in his tones impressed me, and the meaning of the poem sank deep into my mind.

'One day we went across the lough to old Carlingford Castle. He was a daring boatman, was not afraid of the squalls from the mountains, and our lives were sometimes in his hands. Climbing to the top of the old ruin, we had our picnic in the grass between the sky and the sea. Charles lay on his back in the sunshine, with his arm under his head, reading from old copies of the *Nation* newspaper, a bundle of which he had carried up under his arm. I remember particularly a poem on Davis's death which he admired greatly. Two lines he repeated again and again, calling my attention to the beauty of them:

Not even to save the rare cargo of Truth
Would he cast out a part to the storm.

'He was constantly singing snatches of songs and repeating poetry as he went about, usually with his round hat on the back of his head, and sometimes a coat thrown over his shoulder. Everybody admired and loved him, and I think he everywhere gave an impression of singular power and striking individuality in a man so young, while his exceeding simplicity and transparency of character and his capacity for pure enjoyment attracted the young and the humble, and banished the slight awe with which at first his grave brow and penetrating eyes might have affected them.'

In January 1854 Charles Russell's term of apprenticeship ended.

He then took a room opposite O'Rourke's office, and set up for himself, lodging with a French family named Badier. Shortly afterwards, however, he changed from this room to a house at 73 Donegal Street, close to the Mulhollands, and there it may be said his career as a solicitor practically began.

CHAPTER IV

LIFE IN BELFAST

At the beginning of the year 1854 the leading solicitors in Belfast who practised in the Police and County Courts were John Rea and Alexander O'Rourke. Before the end of the year Charles Russell had entered into sharp competition with them. John Rea was a man of singular ability. Acute, witty, eloquent, well grounded in law, and full of energy and courage, he was already famous in the province when Russell appeared upon the scene. Soon both men came to be pitted against each other in cases of public interest. In those days the war between Orange and Green was waged as fiercely as ever; and the battles in the field were followed by the battles in the Courts. Rea held a general retainer for the Orangemen, Russell a general retainer for the Catholics. Russell threw himself into these cases *con amore*. He fought not merely as an advocate, but as an Irishman and a Catholic, warmly sympathising with the masses of his fellow-countrymen, and strongly resenting the wrongs and insults to which they were subjected.

Sometimes he fought without a fee. When his clients could pay, well and good. When they could not, he gave his services for nothing. People will still tell you in Belfast how Charles Russell used to drive to and

fro' Cushendall, during the years '54, '55, and '56, to defend the Catholic prisoners charged with assaults on Protestant 'missionaries.' The story of these Cushendall cases is worth telling. They gave Russell his first chance. Through them he leaped at a bound into notoriety in Ulster.

Cushendall is a small village, some thirty-six miles north-east of Belfast, in the glens of Antrim. There, fifty years ago, a little community of peasants dwelt in peace. They knew nothing of the great world outside—cared nothing about it. Simple, industrious, poor, they toiled for a bare subsistence and were content. Devout Catholics, honest citizens; kindly, warm-hearted, law-abiding, they went their way and gave offence to none. The handful of Protestants who lived in their midst found them courteous, good-natured, neighbourly. They interfered with no man's religion; they practised their own; and so it came to pass that while the storm of sectarian strife raged outside, there was peace in the little village in the glens of Antrim.

Such was the state of things in Cushendall when, in 1854, a horde of Protestant proselytisers were poured into the district by the Irish Church Missionary Society, under the patronage of an Orange parson. These proselytisers at first showed some skill and tact. They had the Scriptures translated into Irish and circulated among the people. The people read the books with avidity. Anything coming to them in the garb of their native language was welcome; even the parish priest did not object. But the proselytisers gradually found that the reading of the Scriptures in Irish made no converts. Then they resolved to take more strenuous measures.

They circulated tracts, denouncing the Catholic religion, ridiculing the doctrines of the Church, attacking the priests. Then, in an instant, the heather was on fire, and the little population rose to a man against the intruders. On November 20, one of these firebrands, Campbell by name, addressed an excited crowd, singling out for special animadversion the devotion of Catholics to the Blessed Virgin. A woman in the crowd—Sarah Murray—seized a pail of water and flung the contents in his face, extinguishing him on the spot. He brought her and other 'rioters' before the magistrates, and Charles Russell came from Belfast to defend them. The trial took place at Cushendall on December 22, 1854. In the conduct of the case Russell showed the skill in cross-examination which afterwards distinguished him, and made a speech which is, I think, in its way, a gem. He extracted from the witnesses the admission that there had been absolute tranquillity until the arrival of the 'missionaries.'

Campbell was called and gave his evidence like a martyr. Russell turned him inside out. Campbell complained, 'There was a man who was conspicuous——'

Russell: 'Well, *Sarah Murray* was evidently *not* the *man*, and it is Sarah Murray who is on her trial.'

This sally caused a burst of laughter, at which the prosecuting police constable cried out, 'Any man laughing will be taken up'—an extraordinary threat, it must be confessed, in an Irish Court of Justice.

Russell then had a passage of arms with the Bench.

Russell (to Campbell): 'Who sent you to Antrim?'

Mr. Crommelin (Chairman): 'I will not allow the question.'

Russell: 'Really, your Worship, if I am not allowed

to cross-examine the witness in my own way, it is no use going on with the case. This is a broad issue, and you will by and by see the object of my questions, though I do not consider it my duty to tell you that object now.'

Mr. Crommelin: 'I cannot allow anything beside the case.'

Russell: 'If you will allow me to go on my own way it will shorten the case.'

Mr. Crommelin: 'We cannot listen to irrelevant matter.'

Russell: 'What may appear to you now irrelevant matter may turn out very relevant by and by. You must be aware that in the higher Courts the fullest latitude is allowed to an advocate in cross-examination, as long as his questions are not immoral or improper, the judge naturally supposing that counsel has an urgent motive for asking such questions.'

Mr. Crommelin: 'I know such things are done, but I will not allow it.'

Russell: 'Nevertheless, a tolerably wise and able judge—Chief Justice Blackburne—thinks differently.'

Russell then opened the defence. As this was the first speech which he made in any cause of public interest, I shall set it out in full:

Your Worship, in this case I must trouble you with a few observations, which will save time, as they will apply to all the other cases. And I beg at the outset to thank you for the courtesy you have shown me. The occurrence you have to deal with is a very trifling one indeed—the only question being, did the woman throw a pail of water over this man's body? Such is the

nominal issue; but the principle involved in the case is so important to the peace of the district that the defendants have thought right to go to the expense of bringing a lawyer down from Belfast, and two of the leading journals of Ireland have sent down their reporters to note the proceedings.

Now I do say that it is lamentable that a district, which for twenty or thirty years has maintained a high character for quiet and peaceful conduct, should be made the scene of riot for any cause whatever. And if I show you that the cause of this disturbance is the distribution of these offensive tracts, then, I think, you have an imperative duty to perform in discountenancing a system which would change the character of this district from peaceable to the reverse. Now, you, gentlemen, know the district well, and you know that the majority of the people are of the Catholic religion—that they have been kindly treated by their Protestant neighbours, to whom they never did any injury—and that they have always respected your jurisdiction and the administration of the law. That was always the case until these missionaries, by a system of conduct most deserving of censure, have sown the seeds of discord here, the fruits of which are these trials, with perhaps still worse fruit to come.

Now I respect sincerely any body of men who, holding certain tenets, disseminate them honestly; but you will agree with me that the honest way to do so is, not to thrust into the hands of humble people, free from crime, illiterate but of strong faith and opinions, hundreds and thousands of these tracts ridiculing the things they hold sacred. I am aware that you differ in religious faith from these humble people; but I know that you do not the less respect their opinions and feelings, as long as they are obedient to the laws. And now, who would think that this moment, when grinding taxes oppress the country, when armies are being raised of men of all creeds to fight for a common cause, would be chosen for scattering

the elements of discord among the people? And will you countenance, at such a crisis, the system which thus sows discord amongst us, and makes enemies of those who should be friends? Your Worships have noticed in the papers, the other day, when Mr. Hamilton in Parliament complained that Bible-readers were not allowed to go about among the soldiers at Scutari, Mr. Sidney Herbert, the Secretary-at-War, replied that the Government had liberally provided and paid proper ministers for the religious instruction of the various soldiers of different creeds, but they could not allow unlicensed persons to go into the barracks or camp and excite religious discord amongst the men. Now, your Worships know that the Protestant religion is the established religion of the country, though the majority of the people hold a different faith. It is a religion for whose ministers I and the poor are obliged to pay as well as you who profess it. The Government has established this religion, and paid officers (to use the word not disrespectfully) to carry it out—bishops, rectors, and curates—let these men discharge the functions for which they are paid, and there will be no need for strolling Bible-readers.

There once lived in this parish a Protestant clergyman, the Rev. Mr. Falloon, who was respected by all creeds and classes wherever he was known. In his time similar occurrences took place to those now before us. The Campbells and Quinns of that day were sent down here and produced like results. But what did that wise and good clergyman do? He said, 'I must put an end to this. If these men are needed here in my parish, then I must have been neglecting my duty; if I have done my duty, then there is no need of them, and I will dismiss them.' He did so; and the result was that the people lived peacefully together, following the duties of their religion, and discharging faithfully all their social obligations. And what did Lord O'Neill say of this district? That during long years of experience as a grand

juror he found that it was always more free from crime than any other part of the country. Such is the character this district has maintained until the Campbells and Quinns came to mar its good name. I do not offer to excuse the act of which this man complains. If it was done, it was wrong.

There is one thing I regret to have to state in this matter. I understand that the Rev. Mr. Dunseath is the getter-up of this affair. I am told that it is he who has brought the Bible-readers here and furnished them with these tracts. I would ask that reverend gentleman through you, does he, a minister, paid out of the people's pockets, think it fair and honourable to send firebrands among them to disturb the district, and excite enmity and discord among the population? What does he expect to gain from a system which can do no good to his cause or creed, and which the majority of the respectable Protestants discountenance? I believe the majority of the respectable Protestant gentry have felt that hitherto peace and good-will prevailed among all creeds and classes in the district, and that the natural result of this new system is disturbance and breach of the law. In this case before you I will prove that much provocation was given before the woman wrongly threw the water upon Campbell; but the broad issue in this case, after all, is really whether you will allow the poor people of this district to be annoyed, and their religious feelings insulted, when leading quiet and peaceable lives, and following their duties as Christians? Now look at the tracts which these Bible-readers have been distributing. They do not contain extracts from the Bible, but are filled with insults against the faith of the majority of the people and libels on their priests.

Now, suppose this was an exclusively Protestant district, and that Catholic priests sent parties here to scatter these tracts, defame the ministers, and insult the religious feelings of the people—if they acted thus, and

angered and exasperated an humble, illiterate Protestant population—would you not feel it your duty to reprehend such conduct, and denounce the system as opposed to the peace and well-being of the country? But here is an almost exclusively Catholic district; and these Protestant tract distributors are sent among the people for exactly such a purpose, and will you not discountenance such a system which sets neighbour against neighbour and disgraces the character of the country? Here is one of these tracts containing a paltry story from an American newspaper, the object of which is to excite disrespect of the priests. Here is another with something about King Solomon and his mother, containing offensive and disrespectful language against the Blessed Virgin whom the Catholic people reverence as the Mother of God. This pamphlet contains statements respecting the reverence for the Blessed Virgin and the Cross, describing it as idolatrous worship which educated Protestants must know to be a falsehood. Now, if such tracts, ridiculing their religious tenets, were circulated among poor Protestants, would it not embitter their feelings? And think you it can be otherwise with the humble Catholics? When such disgraceful things as these tracts are scattered, perhaps, in millions through the country, do you wonder that discord and bitterness of feeling prevail? Here is another placard offering sixteen hundred pounds for various things, every paragraph containing an insult to the people's religious feelings, and at the bottom of all is appended the hypocritical remark that this tract is offered 'in all kindness of spirit to Roman Catholics.' And here is what the poor people well know to be a libellous statement, that the Bible is concealed and burned by the priests. Now, is it not almost absurd to offer any apology for the conduct of an excitable people whose feelings are thus insulted? But what are the facts of this case? Why, it is confessed in the evidence, that, though this man has

been moving about the country thus engaged, and there was at one time a large crowd around him, no stone was thrown, and he never received hurt or injury. The case is most trivial—at worst demanding only a nominal penalty—and I call on you to discountenance the system from which it has arisen, and express your abhorrence of that system as calculated not to promote religion, but to excite violence and disorder.

Sarah Murray was convicted and fined five shillings; but a number of other cases arising out of the operations of the missionaries were dismissed.

In 1855 there were fresh 'disturbances,' fresh persecutions, and Russell again appeared upon the scene. I shall give some extracts from his cross-examination in these cases to show that from the outset he was a proficient in the art. Mr. Campbell was once more the hero and martyr of the hour. On July 5—the date is important—he and another luminary of the 'Irish' Church Society, Mr. McLaverty, were spreading the light of the Gospel near the Catholic chapel at Waterfoot, when the people coming from Mass fell on them, and one, John Walsh, struck Campbell with a stone. This in brief was the case for the prosecution. Campbell mounted the table, and Russell took him in hand.

Russell: 'Have we not met before?'

Witness: 'We may.'

Russell: 'But have we not?'

Witness: 'We might.'

Russell: 'Now, Mr. Campbell, you are a very conscientious gentleman, and, on the virtue of your solemn oath, do you think that an honest answer? Did we not meet before in this very place?'

Witness: 'I won't swear whether I did or not.

Russell: 'What! do you look back on the occasion with horror?'

Witness: 'I won't swear.'

Russell: 'And have you suffered no martyrdom?'

Witness: 'I was struck with a stone.'

Russell: 'Have you not been distributing your tracts?'

Witness: 'I may.'

Russell: 'Are you not aware that the vast majority of the people are opposed to your opinions—if you have any opinions at all?'

Witness: 'They are Roman Catholics.'

Russell: 'Did you not know that on that particular morning the Catholics had religious worship at Waterfoot?'

Witness: 'I believe so.'

Russell: 'And you went to that place knowing that the Catholics look on you with no eye of favour?'

Witness: 'There are some of them that don't care much for me.'

Russell: 'On your oath, does any single one of them care for you?'

Witness: 'I won't swear.'

Russell: 'You say a woman shouted—what did she shout?'

Witness: '"The Soupers are coming."'

Russell: 'Will you swear that she did not sing "The Campbells are coming"?'

Witness: 'I did not hear her.'

Russell: 'Will you swear now positively that John Walsh was there?'

Witness: 'I will not, but to the best of my belief.'

Russell: 'How was the man dressed?'

Witness: 'He wore a black hat, and I think a black cravat. I don't remember the colour of his coat, but I am sure it was not white.'

Russell: 'Had he a strawberry mark—or a wart on his nose?'

Witness: 'I don't know what that is.'

Russell: 'The last time we met, it was a poor woman you were prosecuting; but don't you think you have caught a Tartar this time?'

Witness: 'I don't think I have.'

Mr. McLaverty was next called. He swore positively that Walsh was the man who threw the stone.

Russell: 'How long are you in this district?'

Witness: 'Perhaps about five weeks.'

Russell: 'Are you aware that your comrade (Campbell) has been here several months longer?'

Witness: 'Yes.'

Russell: 'How often have you been to Waterfoot?'

Witness: 'Twice.'

Russell: 'Pray when was that?'

Witness: 'Once when going there that morning, and once when coming back that evening.'

Russell: 'And you never saw John Walsh before?'

Witness: 'Never.'

Russell: 'And you mean to tell me that, though your comrade, who has been so long here, cannot swear it was he, you will swear on your solemn oath that John Walsh was the man who struck you?'

Witness: 'I swear it.'

Russell : 'That will do ; you may go down.'

Russell then opened his case and proved by the production of the Custom House papers that John Walsh was in the Custom at Derry on the day and hour when the missionaries swore he was throwing stones at Waterfoot.

The case was dismissed.

The magistrates showed a decided bias in favour of the prosecutors in all these cases. In one case a blank warrant signed by a magistrate had been given to McLaverty, so that he could at his discretion fill in the name of any offender he chose. For this extraordinary conduct Russell fell foul of the Bench. He cross-examined McLaverty on the point.

Russell: 'You got a warrant in blank, signed by a magistrate, eh?'

Witness : 'I don't know.'

Russell: 'Was the man's name (the defendant O'Flynn) in it?'

Witness : 'I don't know.'

Russell : 'Did you swear in your informations that you knew the name of the man?'

Witness : 'No.'

Russell : 'Were there any informations sworn except yours and Corbett's (another missionary)?'

Witness : 'No.'

Russell: 'And the warrant was given on your informations?'

Witness : 'It was given on the condition that we should find the man.'

Russell : 'And after you arrested him you put in the name?'

Witness (after much hesitation) : 'Yes.'

Mr. Crommelin (Chairman) : 'Here are the informations.'

Russell (to the Bench) : 'Would you be kind enough to give me the warrant?'

Mr. Crommelin : 'I know of no warrant. These informations were sworn, and I ordered the man to be arrested.'

Russell: 'Does your Worship mean to say that this man was actually arrested without a warrant? [No answer.] This is strange. Was it you, Mr. Dobbs (another magistrate), who signed the warrant?'

Mr. Dobbs : 'I will not answer that question. I am not under cross-examination.'

Russell: 'I am entitled to get every fair information from you, and I ask you to produce that warrant.'

Mr. Dobbs: 'The police constable has a right to arrest anybody he pleases, and to bring him before a justice.'

Russell: 'Very well. Constable, have you that warrant?'

Constable : 'It is at the police station.'

Russell: 'Very well, that will do.'

The other proselytiser, Corbett, was then called, and Russell returned to the question of the blank warrant.

Russell: 'You accompanied Mr. McLaverty to the magistrate [for a warrant], and you know the magistrate to whom you applied?'

Mr. Dobbs (warmly): 'It was I who gave the warrant, and that is all about it.'

Russell: 'I don't want that piece of information

from Mr. Dobbs. When I asked him the question before, he refused to give me a straightforward and civil answer.'

Mr. Dobbs: 'Because you asked it peremptorily, and not, I am sorry to say, with that courtesy to the Bench you exhibited on a former occasion.'

Russell: 'I have never shown the least discourtesy to the Bench. But I will do my duty to my client, no matter what the consequence may be. A most extraordinary proceeding has been resorted to. Contrary to the Statute, a blank warrant was given to these men to put any name they pleased in it, and I have felt it my duty to condemn that most extraordinary and illegal proceeding. I beg now that I shall not again be interrupted in my cross-examination of the witnesses. (To witness.) When you went to Mr. Dobbs, you did not know the name of the man who threw the stones?'

Witness: 'I did not.'

Russell: 'And you got the warrant nevertheless?'

Witness: 'I did.'

Russell: 'You arrested this man, and then swore informations before Mr. Crommelin?'

Witness: 'Yes.'

Russell once more proved, by irrefragable evidence, that his client was not present when the alleged assault was committed, and the magistrates were again forced to dismiss the case. The result was hailed with delight by the excited multitude assembled outside the Court-house, and when Russell appeared he was received with ringing cheers. A bonfire was lighted before his hotel, and later on in the evening, as he started on his homeward journey, the horses were taken from his carriage

and the people insisted on drawing it out of the town along the Ballymena road.

These 'disturbances' and prosecutions still went on from time to time—Charles Russell always coming to stand by the prisoners, and almost always securing an acquittal—until at length the 'missionaries' disappeared, and peace reigned once more in Cushendall.

In August 1856 Russell and John Rea were opposed to each other in a party case at the Moira petty sessions. A Catholic priest—Father McKay—while walking to his home was set upon by a gang of Orangemen, knocked down, and left insensible on the road. Thirty prisoners were charged with the assault. Russell prosecuted, Rea defended. Having stated his case with much ability and moderation, Russell said, in conclusion, that he would not press the charge, as he had not evidence against all the prisoners, and as it was the wish of his client to show a spirit of forgiveness.

Rea, in reply, congratulated Russell on his able and temperate speech, and thanked Father McKay for the truly Christian spirit which he had shown. On one point he differed from Russell. 'Mr. Russell's idea,' he said, 'as to the ability of the magistrates to suppress the party spirit among the people is a mistaken one. The magistrates in every district have been most anxious for years past to put an end to party feuds, but cannot do it. I think I could soon do it.'

Russell: 'How would you do it?'

Rea: 'I would abolish Regium Donum and the revenues of the Established Church; and I would make you give up the Maynooth Grant.'

The prisoners were then discharged. On going into

the street Rea was seized by the Orangemen and carried on their shoulders to his hotel. There he made a conciliatory speech, ending by calling on the Orangemen to give three cheers for Father McKay. This, marvellous to say, they did, and Russell and Rea then took their departure, amid general manifestations of peace and goodwill. Such a scene had never been witnessed in the County Down before, and has never been witnessed in the County Down since.

While working hard at law, Russell took a keen interest in politics. Denis Holland, the editor of the *Ulsterman*—a Nationalist organ—was his friend. Russell wrote for the *Ulsterman*. Sometimes, when Holland was away, he brought out the paper; and Holland always sent a reporter to describe his important cases. It may perhaps be mentioned parenthetically that the bookkeeper in the *Ulsterman* office at this time happened to be a 'smart gentlemanly young man,' destined in after years to meet Charles Russell under dramatic circumstances. His name was Richard Pigott.

I have said that Russell as a lad fell under the influence of the Young Ireland movement. He remained under that influence still. Sympathising, of course, with all the popular demands of the day—Land Reform, Church Reform, Education Reform—he was essentially a nationalist. His heroes were the men of '82 and the men of '42. To the end, the characters in Irish history whom he loved best were Henry Grattan and Thomas Davis; and for this reason: because, animated by the purest motives of patriotism, they strove to unite all classes and creeds for the common object of creating a

national spirit which should inspire the public life of the country.

In 1856 Holland was engaged in a controversy with the *Northern Whig*. Russell objected to one of the articles in the *Ulsterman* because it was not sufficiently 'national' in tone. He wrote in a private letter:

It talks too much of the 'social' and the 'industrial,' and almost shuts out completely what alone gives [us] strength and health—the national idea.

On one occasion, addressing the magistrates at Dungannon in an Orange case, he wound up his speech thus:

While driving into your handsome town to-day, and passing the fine old church on the hill, I could not help being struck with the difference which Dungannon presents now from that which it presented when in that house of prayer in 1782 the brave volunteers assembled—some of them the ancestors of the men I am now addressing—and with the clanging of weapons of war in their ears, and the national standard waving high above them, they prayed and took council for the nation. I love the volunteers who loved their country and united for her good. But now, alas! no such body is found in such a cause, and the descendants of these men are engaged in sitting in judgment on the factions whose feuds disgrace the country.

Responding to the toast of 'Ireland's Illustrious Dead,' at a banquet in Belfast in 1856, he thus referred to Davis:

I cannot close my observations without a word about Thomas Davis—a patriot whose life was short, but whose work was great, and whose spirit was as pure as an angel's. Himself a Protestant, he sympathised with all classes of

Irishmen; and in the enlarged benevolence of his heart his mission was to prove to all sects the identity of Irish interests.

In July 1854 Russell's mother and sister Sarah came to live with him, remaining in his house while he stayed in Belfast. We have some characteristic letters from his mother at this period—1854–56—from which I shall take a few extracts. In these Belfast days, as in later days, Charles Russell was fond of a game of cards; and then, as afterwards, he would, when not taking a hand himself, sit by, commenting on the play and occasionally advising players. His mother writes *à propos* of this trait:

'I have been spending a very pleasant time since you [her daughter Sarah] left last Sunday. I passed the entire day in Dr. Mulholland's. I had one evening Mrs. Boyle, Miss Collins, and Andrew Jennings; all dropped in for tea; John came later and we had a game of cards; Mrs. Boyle never had played *spoiled five* in her life, nor seen it played, yet she swept the entire winnings of the evening, the enormous sum of 4*d.* Charles indeed gave her the benefit of his learned advice, as he did not play himself. We had a rubber at whist at first for guinea points, at which Mrs. Boyle was very expert, and I being her partner should have pocketed a neat sum; but unfortunately we traded on credit by common consent and it was late in the evening when we commenced ready-money speculations at *spoiled five*.'

In those early days it is clear that Charles was an authority in his house, for we find his mother writing to her daughter:

'Miss McLaughlin called upon you to collect, as it had

been arranged [for a bazaar]; she was disappointed at your absence and I offered to supply your place ; but Charles put a veto on that movement on the plea that nobody would subscribe a farthing if called upon by an old woman ; so Miss Murney was good enough to go in your stead.'

In 1856 Russell's career as a solicitor practically came to an end; and, as we shall see in the next chapter, he then prepared to enter upon a new sphere of activity.

He was, it may be said, drawn out of Irish politics and away from Belfast (1) by the necessity of having to make a living, and (2) by the determination to go to the Bar, where by fair fight—not, as was unfortunately the practice under the English *régime* in Ireland, by becoming the hack of some political party—he hoped to force his way to honour and distinction.

In closing the story of his Irish days, I shall allow one[1] who saw him flesh his sword in the Cushendall trials, and can recall other memories of those times, to add a word of appreciation :

'I may say that I had on two or three occasions only the pleasure of meeting Charlie Russell, as he was familiarly and fondly called. I noticed then nothing worthy of record. I met him at dinner in the late Father FitzSimon's humble cottage on the occasion of the trial in the Court-house at Cushendall. I saw then that he was a man of great and generous feelings, that the heart, the honesty, and generosity of the man were great and noble. I foresaw that these, joined to ability,

[1] Father McCartan, who was curate at Cushendall, and who is now parish priest of Larne.

not yet made so manifest, and labour, and perseverance would carry him, when occasion offered, far and high; for, after all, the noble, honest, generous heart moves, attracts, and leads more than great talents. It was Gladstone's honest and generous heart that won him more victories than his great abilities.

'I remember also a contested election in Co. Antrim, when a Mr. Jones of Duncaine stood against another (I really forget the name). Mr. Russell and Mr. Holland addressed and harangued, I remember, the congregation at the Bay Chapel in Glenariff, after Mass, in favour of Mr. Jones, the Liberal candidate. This, I think, was Mr. Russell's first effort on the political platform. Jones was defeated, as was expected in such a Tory constituency as Co. Antrim. Of Mr. Russell's holidays in Glenariff with his mother and family—how they were spent, and what boyish freaks and incidents occurred, I know nothing. I did not hear my parish priest speak of him then. But it was evidently owing to Father FitzSimon's pleasant acquaintance with the Russell family in their summer stay in Glenariff that young Russell, when he became an advocate, was invited down by him to this trial in Cushendall.'

So much for Charles Russell's life in Ireland. We now turn to his career at the English Bar.

CHAPTER V

THE BAR: MARRIAGE

I HAVE told how, in 1851, Dean Bagot advised Charles Russell to go to the Bar, and how his mother and step-brother—anxious to do the safe thing—warned him against this course. But Russell never forgot Bagot's advice, harmonising as it did with his own wishes and intentions. In 1854 he received another word of encouragement, also from an unexpected quarter. He appeared in that year at the Newry Quarter Sessions before Judge Theophilus Jones—a Protestant of sound Orange principles. Jones was much struck by the ability which the young solicitor displayed in the conduct of his case, for he showed not only a grip of the facts, but a thorough knowledge of the law bearing on the question. At luncheon time Russell received a slip of paper with the words, 'Come and lunch with me.—T. J.' Russell went. At luncheon Jones said: 'You are wasting your time practising as a solicitor. Go to the Bar, and go to the English Bar. As a Roman Catholic, you will have a bad chance on the Northern Circuit here. Go to England, and join a circuit where there are Irish. Try Liverpool, where the Irish are strong.'

Two strangers—two Protestants—almost alone, up to this time, gave Russell encouragement. Within his own family, among his friends and acquaintances, it was

still thought that the change which he contemplated would be a fatal leap in the dark. Such was the state of the case up to 1855, when a new influence entered fully into his life, and, it may be, determined his career. I have already described the intimacy which existed between the Mulholland and Russell families. Let me add briefly: Dr. Mulholland's eldest child, Ellen, had been abroad during 1853 and 1854 at a convent school near Brussels. In 1855 she returned to her home in Belfast, and she and Charles Russell met again after a long interval. They met as old friends. Very soon they became to each other something much nearer, and henceforth, young as she was, it was to her and her only that he always turned for the sympathy and encouragement that at this time he so much needed.

One day, walking with Miss Mulholland in Shane's Park at Randalstown, Russell broached the subject which was ever uppermost in his mind—the Bar. He told his companion how his family and friends were opposed to any change, although it was his own most ardent wish to become a barrister. 'But of course you will go to the Bar?' she said. 'I hope you will; I know you will succeed.' And so they decided it was to be. Mrs. Russell was grieved and troubled when she was told her son's decision, and appealed to Miss Mulholland to use her influence to prevent him, as she said, 'throwing away a certainty for an uncertainty,' when that young lady uttered the awful threat: 'If he does not go to the Bar I will never speak to him again.' That settled the question, and before the end of the year he had taken the first step on the road which led to fame and fortune.

Hastening to Dublin in November 1855, and still, doubtless, influenced by his Young Ireland sympathies, he entered Trinity College, under John Kells Ingram, author of the famous ballad, 'Who fears to speak of '98?'

Russell never lived in college. He read in Belfast, and came to Dublin to pass his examinations, his object being to get two years struck off his time in preparing for the Bar. He did not take a degree, but passed his 'little go.'[1]

'I saw very little of Russell,' says Dr. Ingram. 'He read outside and simply reported himself to me when he came to town to pass his examinations. I was not struck by his ability at the time. What did strike me about him was his submission to superiors, and his readiness to listen to any one who could give him information.'

During the years 1855–58 Russell wrote constantly to Miss Mulholland, taking counsel with her in all things relating to his career.

After passing the matriculation examination in 1855 he wrote:

From ten this morning until half an hour since (about which time it was 5.30 o'clock), I was sitting in the Examination Hall of Trinity in company with some eighty fellows like myself, and in view of the awful authorities of the place, going through my facings in the examination line. It is only a few minutes since the result became known, and I know you'll be glad to hear

[1] Common Room, T.C.D.

I certify that Mr. Charles Russell was during two full years a student of Trinity College, Dublin, and passed the public examination at the end of the second year.

JOHN K. INGRAM, LL.D.
Fellow and Tutor of
Trinity College, Dublin.

April 22, 1864.

of it. Not only have I passed, but Dr. Ingram tells me I made a very respectable examination, and in some matters in particular got very high marks. Now you know that this was very far beyond what I had hoped, and I know right well that you'll be very glad, as glad as I am myself, at the encouragement this will give me, or rather does give me, to read hard and steadily for the future.

In January 1856, on passing his examination for the term at Trinity College, Russell wrote:

I suppose you expected to have heard from me this morning, and so you should have, had the examinations terminated on yesterday evening as I thought they would have. Instead of this they continued the whole of that day and of this too. I have only got away from the lecture hall this minute (5 o'clock), and was impounded there since nine this morning. Than you there's no one in the world will be gladder to hear that again I've leaped the ditch—that is, passed my examination. To my dismay, just before the trial, I found that the business required was extended, and so I had to set about it forthwith at the last hour at every disadvantage. I'm very glad to be able to say I got over *very very* respectably indeed. Now that I come to measure myself with the fellows here, I do think with a little, *very little*, more exertion I might make my progress through college even moderately brilliant.

Later on he wrote again:

I have a bit of news for you. Lo and behold you, my mother has from time to time sent out to California papers containing affairs of mine (I don't know precisely what ones they were) which, either through fate or some other party, found their way into the hands of (amongst others) one P. McMahon—whoever he is; and, lo and

behold you! yesterday I received as a tribute from the said gentleman, in a case, a magnificent massive gold ring with a large stone beautifully set, and inscribed in the inside 'From P. M. to C. A. R.,' and in addition a piece of solid ore, as from the ground, wound round a very pretty stone, and made into the form of a breast-pin. I heard Mrs. Hamill remark that it would make a very fine shawl pin; and I hope that you'll think so —now maybe this isn't something?

'Courage, courage—remember what we're working for! We!' That's right, dear.

In October 1856 he was in Dublin, and wrote:

I delayed writing you until I should have been able to tell you my fate at college. I have just now left the college lecture hall after a very severe 'tussle' of two days. Although the wind and tide were dead against me and my vessel not well-manned for hard weather (as you know), I've rounded the point. In plain words (to cut my nautical metaphor), I've passed with sufficient distinction and rank much higher than I had hoped for.

In October he left for London to enter at Lincoln's Inn. On arriving he wrote:

10 Norfolk Street, Strand.

Here I am in this huge Babel, all alone. . . . I left Dublin at five in the afternoon yesterday for Holyhead, which I reached about 1 A.M. I had as company a student from Oxford who, like myself, had been passing his examination in T.C.D. The passage was very rough, the decks being completely washed from stem to stern. . . . I entered the railway carriage at Holyhead at between one and two this morning, and didn't reach this until past one the afternoon. [London] I feel is a place where the blood of society rushes healthily and strongly, and where in sooth great life-struggles are being made. I was agreeably pleased with the country, and

surprised to find it so much less faded and dull than I had expected. Certainly it hasn't the mountainous variety or fresh colouring—so grateful to the eye—that Erin has; but there's a look of peace and social comfort about it which speaks of a well-to-do peasantry not hard up for the means of physical comfort. . . .

Russell was at this time an utter stranger in London. It was necessary that he should get two householders to sign his bond at Lincoln's Inn. He could not, at first, remember that he knew even one. However, after 'cudgelling' his brains (as he used to say himself in telling the story afterwards), he bethought him of an Irishman who lived in the East End. He saw this man and said what he wanted. 'Well, then, Master Charles,' was the response, 'it is only delighted I'll be to sign your bond for you, and I think you said you wanted two householders. May I bring a friend with me? Russell replied, 'Certainly.' And next day the Irishman and his friend appeared at Lincoln's Inn and signed the bond.

One evening Russell was at the Haymarket Theatre. On the fall of the curtain he stood at the corner of the pit to have a look at the house. Two men were near him. Suddenly some one cried out, 'I am robbed; I have lost my watch, and these three men have it.' The idea struck Russell, 'If one of these men has the watch, he may slip it into my pocket.' He put his hand behind, pressed his pocket, and exclaimed: 'Good Heavens! they have done it: there is the watch.' The police arrived upon the scene; the two men and Russell were walked out. 'What am I to do?' thought Russell; 'no explanation that I can give will get rid of the fact that

the stolen watch is in my pocket.' Characteristically he came to the conclusion that the best thing he could do was to take out the watch, hand it boldly to the police, and trust to fortune and truth. He put his hand into his pocket and found—his snuff-box! One of the other men had the watch.

On November 6 Russell entered the Inn; on the 11th he wrote:

10 Norfolk Street, Strand.

. . . You ask me to tell you what my lodgings &c. are like. Here follow full particulars :—Norfolk Street is outside the City gates a short way—about three stones' throw from Temple Bar and a minute's walk from Exeter Hall—to the heroes of which latter, as you know, our country is so much indebted. I am in a capital situation for sight-seeing—within very convenient distance of all the principal theatres and places of public amusement; but when I tell you I haven't been to the Crystal Palace, and won't this visit, and didn't go a few yards out of my way (at the cost of a few minutes) yesterday to see the Lord Mayor's great Show, you'll easily believe that I've been very sober indeed for a London visitor from the country. The only two things which have indeed interested me are matters which belong to a far-back past, and which rose up in a time when England still held the faith which Gregory gave her—and when the Church was not rent by schism—I mean the old Tower of London and Westminster Abbey. But, love! I'm descending from the garret which has had the honour of enclosing me within its stony embrace this fortnight past without giving you as full particulars as I think you would desire. Well, dear! my lodging is indeed a garret, or anyway a small room on the fifth floor. The establishment of which it forms a very insignificant part is a private hotel kept by one Cornu, a Swiss. It is remarkably clean and most

respectable. I only sleep and breakfast here—having, when I please, the use of the dining parlour in which I now am. I dine principally at the Inn of my Court—Lincoln's Inn—in company with some 100 men, like myself, mixed with men already called to the Bar. I enjoy this part of the business very much: you meet well-bred and well-informed men—many of them distinguished as literary or professional men. At a table at the end of the magnificent dining hall sit the presiding powers of Lincoln's Inn—consisting of such of the Judges, Queen's Counsel, and Serjeants as happen to be members of this Inn: for you should know, dear, that there are three other Inns governed in the same way, but none of which is equal to Lincoln's in point of numbers or respectability. I have disposed of some half-dozen dinners in state; but, being a member of one of the Universities, three would have sufficed to get me credit for the present term.

In 1857 he was again in England keeping his terms and on February 2 paid his first visit to the House of Commons. He wrote:

Last night I enjoyed a new sensation! I got into the House of Commons; saw the rulers of Great Britain and her dependencies; heard Disraeli, Gladstone, and some others speak. I enjoyed it all immensely, but was only in the Strangers' Gallery and had not as close a view as I would have desired of the notabilities. I saw Lord John very distinctly, and he reminded me very strongly of Monsieur Badier *minus* the specs. Disraeli is a very odd-looking character. Small and neat in person, black hair, large black eyes, prominent forehead, not remarkably large cranium, and bearing all the marks and tokens of one very particular about his appearance. Before he rose to speak one might have observed him running his hand over his face, round his hair, eyebrows, and whiskers, down over his handkerchief, waistcoat, and

chain, until his fingers rested upon his glass with which he (in a half-concealed manner) viewed the 'house' and scanned the public in the galleries. His speech was good, but not remarkably stunning. I should say in looks he is very like Duffy, but his cheek-bones are more prominent, and give to his face a harsh look, which Duffy's had not.

On February 24 he wrote again:

I was at Cardinal Wiseman's conversazione on Tuesday and saw a number of Catholic notabilities: I was rubbing elbows with M.P.'s and great folk of that sort. It was, however, very pleasant. I was chatting pleasantly with one or two people, and three hours slipped by very agreeably. When I was leaving, the Cardinal said very kindly he should be glad to see me any time I called, and asked where I was stopping in town, and how long I should remain. The secret of this is that I had a letter from Dr. Russell of Maynooth.

Russell's decision to go to the English Bar was communicated to Mrs. Mulholland in the following letter:

My dear Mrs. Mulholland,—There's one topic which, from its intimate connection with Ellen's and my own future, I've long wished to talk over with you, and as to which I'm sure you have desired I should speak. My change of profession having been once made, the question next presented itself—where was it to be practised? It may be that you looked upon it as a matter of course that I should practise in Ireland without in fact considering the question. The matter is not to be determined in this way: it is one of very serious import not hastily to be resolved upon, and requiring mature consideration and attentive observation. Let us calmly talk it over, my dear Mrs. Mulholland, and let me have

the benefit of your calm judgment and advice. I begin by saying that I think I have in Ulster a considerable professional connection, and some name which would probably be of material service to me as a barrister, but I rejoice that . . . . .

[*A page is here lost.*]

serve their country best who shut their eyes to anything of politics or public affairs, and upon their business concentrate their energies. But you will say, very naturally, Why cannot you do *this* then which you point out? In answering the query, my dear Mrs. Mulholland, you will allow me to say that if this could be in the case of a *barrister*—if, without compromising any opinions I hold sacred, I could remain in Ireland, endeavouring successfully to practise my profession—even though the business might be less—even though the emoluments might be smaller—I would gladly, so gladly, say to myself, 'I'll remain in Ireland to do or die!' It *can't* be so. I'm not romantic in these notions, but because of no risk whatever would I (now that we are speaking out our minds on this subject) withhold the expression of *all* the *views* I have in the matter, and the reasons on which those *views* rest, and therefore I say plainly it's impossible to strive for success at the Irish Bar, standing on neutral ground—you must either go with the tide or oppose it—the first with my ideas brings no honour, the latter is impracticable. Who are the men who have of late years risen, *especially* amongst the Catholics, to places that are reputed stations of honour and dignity? Men who rose because they forgot their early instincts which shot right up like the young sapling unbent by the gardener's ligature, or who, if they didn't forget, then acted as if they did: men who did dirty business (excuse the speech) for the people in high places and so got their wages: men who, amongst their brethren, were not pre-eminent for learning and genius, but only

remarkable for the yieldingness of their opinions, and so a profession which once reckoned *great* men in its ranks and stood marked for its independence would now be more fitly characterised for its servility and its absence of public virtue. But you say, 'You speak of those who have attained judgeships and such like; but these are not aimed at by you, and, not being aimed at, you can't suffer the inconveniences you point out.' Again you are right: it is so—my ambition extends to a decent competence honourably obtained; *but*, unhappily, the same cancer is widespread, and though many, many honourable men are in its ranks, yet as a *whole* the profession in Ireland is tainted with the servility spoken of—and can it be otherwise? If there be poison in the spring, you must expect it in the stream.

Now, my dear Mrs. Mulholland, while I have thought it necessary thus so graphically to explain my notions on this subject, I hope you will understand me as speaking from my point of view *solely*. While under no possible circumstances will what is in itself *wrong* become *right*, yet there are many courses of conduct which, not being absolutely or in their *nature* wrong, will become *right* or *wrong* just as people view them *to be* right or wrong; and hence it is that there are hosts of men of honour at the Irish Bar who act in no way inconsistent with honour and principle simply because their judgment approves their conduct; while the same actions performed by one who has opinions identical with mine would be in a high degree dishonourable as being contrary to what his judgment approved of.

In May 1858 he went to London to pass his examination for the Bar.

On May 29 he announced the result to Miss Mulholland in a letter:

Good news just to hand.

I've got the *first* certificate of distinguished merit, and am told I am only within a few—very few—marks of the taker of the studentship [1] who six months ago got *his* certificate.

One poor Irishman stood out well the first two days and half of the third, when (having sat up all the night preceding) he fairly broke down and lost his ex.—he was said to have been a good man too.

While in London at this time he seems to have contemplated the possibility of settling in Australia. He wrote :

Do you know I purpose writing to ask Dr. Cuming to ask his good wife to write to Australia to get me, through Mr. Duffy, all possible information about the state of the legal profession in Melbourne ; but this is *entre nous.*

His marriage with Miss Mulholland was fixed for August 1858.

On June 1 he wrote to her :

Tell me, would you not like a three weeks at Killowen, for its own and old times' sake, with a fair share of walking, excursioning, boating ? I think we could then start for London in tip-top health and spirits. Or, if it were possible, the wilderness, and strangeness, and romance of Boffin and the West generally would be charming.

On August 10, 1858, Charles Russell was married to Ellen Mulholland at St. Malachy's Church, Belfast, by Dr. Russell of Maynooth. The honeymoon was spent in the island of Boffin—whither the young couple crossed from Clifden in an open boat in half a gale of wind.

[1] Mr. Langley.

They remained at Boffin for some ten days, and then set out for England, stopping for a short time at Liverpool, and reaching London early in September. In November they took a small house at Earl's Court. In January 1859 Russell was called to the English Bar, and, fixing his quarters at Pump Court, Temple, prepared to face the future. He had burned his boats, and stood upon the threshold of the new life with a stout heart, a high spirit, and a companion whose presence, from the beginning to the end, was a solace and an inspiration.

CHAPTER VI

ENGLAND

On the day of his wedding Charles Russell received 1,000*l.* from his mother. That was the capital on which he began his career at the English Bar. He brought with him to Liverpool a letter of introduction from Dr. Russell of Maynooth to Mr. James Whitty, an influential Irish Catholic woollen merchant in that city. Whitty introduced him to John Yates, a leading Catholic solicitor, and a member of the Corporation; and John Yates—who proved the best friend man ever had—gave him his chance. Russell wanted no more.

It has been said that he at first settled in Liverpool. This is untrue. From the start he settled in London. In the early years his practice was, no doubt, mainly in the Court of Passage, Liverpool; but even from the outset he had clients (secured mainly by the influence of Yates) in London too. Irishmen and Catholics were of course his sheet anchor; and outside his profession he was devoted to Irish and Catholic interests. In the year of his call to the Bar the condition of Catholics in the workhouses in England—and the Catholic poor were chiefly Irish—attracted a good deal of attention in Catholic circles. At the suggestion of Yates, Russell took up the subject.

In the summer of 1859 he published a pamphlet entitled 'The Catholic in the Workhouse: a popular statement of the law as it affects him, the grievances it occasions, with practical suggestions for redress.'

The point of the pamphlet was to show that the faith of the Catholics was in danger in the workhouse, the remedy suggested being the appointment of Catholic chaplains and schoolmasters, and the introduction of a compulsory creed register.

The pamphlet seems to have made quite a stir in Catholic circles. In June John Yates wrote:

> The pamphlet capital. All honour to the author, with a tiny bit for me for having originated the idea, and for friend Whitty for having so zealously aided it. It is just in the nick of time. Everybody desires to know who is Charles A. Russell, Esq., Barrister-at-Law. I am glad the Cardinal appreciates your efforts.

Most of the reforms advocated in this pamphlet have since been carried out.

Besides practising his profession, Russell wrote a 'London Letter' (for which he was paid six guineas a month) to a Dublin newspaper—the *Morning News*[1]—owned and edited by a brilliant Irishman, the late A. M. Sullivan.

In September 1859 we find Mr. Sullivan writing to him:

> I have been for some time on the watch for half an hour to tell you how truly pleased I am with the London correspondence. You have gone on improving so as to

[1] The *Morning News* was founded in April 1859: it came to an end in December 1864.

elicit a notice of the fact from several critical readers. I really see nothing to suggest for alteration or improvement, and feel under an obligation to you for the 'hearty goodwill' with which evidently you aid us. . . . I need scarcely say that, next to the exceedingly interesting contents of your letters, the regularity of their arrival has given me great satisfaction, and that I count myself exceedingly fortunate in engaging the aid of your grey goose-quill.

Russell also wrote for a London Catholic newspaper —the *Weekly Register*—and in 1860 contributed at least one article to the *Dublin Review*. The subject was the 'Civil Correspondence' of the Duke of Wellington, while Irish Secretary, 1807-09. I shall quote from the concluding paragraph:

But Sir A. Wellesley's Government in Ireland had its merits as it had its grievous faults. The faults were rather of omission than commission. His rule bore too much the nature of military command in a newly conquered country. But he showed no petty bigotry against the Catholic body, and did not strive, as the law gave him ample power to do, were he so minded, to harass and annoy them. He did not suffer himself to be led by the savage counsels of the Orange supporters of the Government, and in no one instance was he betrayed into cruelty towards that oppressed body. But one looks in vain in his administration for any signs of a great and magnanimous policy. . . . He was not up to his opportunity; he lost a great chance for a great experiment of conciliation. His policy was to repress rather than redress. He was content to keep down the active signs of discontent; he did not strive vigorously to remove its cause. There was a want of breadth about his policy. He governed with no foresight, but for the day and in the interest of his party. He made no effort to weld the

different elements which composed the Irish people into one body, compact and united in name and interest. He rather fanned the flame of religious discord. He did not do one act, or utter one word, to inculcate in the Irish people the noble lesson :

> No matter that at different shrines
> They prayed unto one God ;
> No matter that at different times
> Their fathers won the sod ;
> In fortune and in fame they're bound
> In stronger links than steel,
> And neither could be safe or sound,
> But in the other's weal.

Nor, on the other hand, was his policy pointed to make that union with England which Lord Castlereagh had wickedly consummated by the act of a blind, bad Parliament—a union in fact, in feeling, in interest. The Irish people then stood out as distinct as ever, a separate body, and they were so treated. He dealt with them like a subdued, an alien people. . . . When concession did come, it came not as a pledge of humane and beneficent policy. To the receivers it was an admission of growing strength : from the givers it came with a grudge, for it was an admission of growing weakness. It had lost much of its virtue. It failed to conciliate. It were needless to say that the errors of Sir Arthur Wellesley's administration have not been uncommon in the history of the government of Ireland. They have steadfastly followed and marked, with few notable exceptions, the current of its history. They have taught the lesson, fruitful of distrust and deep-seated disaffection, that concessions to Ireland are concessions made not from a sense of right and justice, but yielded to necessity.[1]

In December 1861 Russell appeared in his first important case, the well-known Windham lunacy inquiry.

[1] *Dublin Review*, xlviii. 525-6.

William Frederick Windham, of Felbrigg Hall, Norfolk, the only son of Mr. Howe Windham, and great-grandson of Charles Windham, came of age in August 1861, succeeding to the Felbrigg estates and other valuable properties. From infancy he had shown signs of mental incapacity, and his infirmities grew with his years. He was notoriously foolish and eccentric. He married a prostitute, made ridiculous settlements upon her, and generally mismanaged his affairs. His uncle, General Windham (who with his mother, Lady Sophia Elizabeth Giubilei, had been his guardian), applied for a Commission *de lunatico inquirendo*. The Commission,[1] having sat for thirty-four days—from December 16, 1861, to January 30, 1862—decided that Mr. Windham, though eccentric, was not a lunatic, and left him in control of his affairs. Russell watched the case in the interest of the mother, and, to use his own words, made a speech, and 'a good little speech too.' He said:

My client has no personal interest in this case apart from the interest of her son; but the Lords Justices thought that in an inquiry into the mental sanity of her own child she should not be doomed to be a mere passive spectator, and I think it will be admitted that her counsel has not hitherto abused the power granted to her to be present and take part in the proceedings. Mr. Chambers, in his able opening speech, stated that Lady Sophia is to be taken as concurring in the petition against her son. That statement is not correct. Lady Sophia has never concurred—she does not now concur—in these proceedings; but, on the contrary, all her sympathies, interest, and wishes are with her son. It would be unnatural

[1] Samuel Warren, Q.C., author of *Ten Thousand a Year*, was the Commissioner.

indeed for a mother, except on the clearest grounds and for the most incontestable reasons, to assist in branding her own child with the stamp of mental incapacity. Perhaps the only gratifying feature in this case is that Mr. Windham, of whom it has been said that his heart is not capable of good, and that he has no moral feeling, had during his whole life, beginning from his earliest youth, constantly expressed the deep and earnest affection which he entertained for his mother. It is not surprising, therefore, that Lady Sophia, instead of concurring in the petition against her son, should disapprove and condemn it. She regretted and grieved over the faults which undoubtedly had stained his youth; but those features of the case had been greatly softened by the evidence for the defence, and Lady Sophia looked forward with confidence to the result of the interview which the master and the jury proposed to have with her son. The jury have to decide upon a case surrounded by prejudice and falsehood, but I trust they will rivet their attention upon its real merits. I hope they will pause long before they fix upon Mr. Windham the stain of insanity—before they take from him, on the very threshold of manhood, that which makes manhood a thing to be prized—the sense of personal freedom and personal responsibility. You have been told that this inquiry will have a sobering effect upon him, enabling him to distinguish real from pretended friends, and if so it will serve a great and beneficial end. By a verdict in his favour you will give him an opportunity of retrieving the follies of his youth—the follies of a riotous, unrestrained, and untutored youth—and of playing a part which, though not conspicuous by great deeds, might not be altogether unworthy of the name which he bears, and of the social position into which he was born.[1]

[1] Mr. Chambers, Q.C., Mr. Field, and Mr. H. Williams appeared for the petitioners; Sir Hugh Cairns, Q.C., Mr. Karslake, Q.C., and Mr. Milward for Mr. Windham; and Mr. Coleridge, Q.C., for Mrs. Windham.

About the same time Russell appeared at the Liverpool Assizes in a case which, at the moment, created some public interest. A soldier in the 32nd Regiment, named McCaffrey, was indicted for the murder of Colonel Crofton and Captain Hanham. McCaffrey had been sentenced to fourteen days' drill and confinement to barracks, and one night's imprisonment on the charge made by Captain Hanham of neglect of duty.[1] On being released he saw the Colonel and Captain walking in the Barrack Square, and shot them both. Russell defended the prisoner, directing his efforts to reduce the magnitude of the crime from murder to manslaughter. But McCaffrey was convicted and sentenced to death. Russell's speech in this case is not a good specimen of his style; it is diffuse and lacks directness and force. The case, however, was quite hopeless. Some years later he appeared in another case which also attracted some public interest. A woman named Cotton was indicted for murder. She had insured the lives of several persons—her husband, her children, her paramours—and poisoned them to get the insurance money. Russell prosecuted her and she was hanged.

Campbell tells us that Lord Ellenborough 'disdained the notion of attending Quarter Sessions, and always was inclined to sneer at young gentlemen who tried to force themselves into notice by writing a law-book.'

Russell was not above these simple devices for pushing his way to the front. He attended Quarter Sessions, and, in April 1862, published a book on the practice of the Court of Passage—a work which still holds the field.

[1] He had failed, while on guard, to keep the children away from the officers' quarters.

In March 1863 Russell left 3 Earl's Court Gardens and took up his abode at Montague Place, Russell Square. This, in brief, is the record of his first four years at the Bar. Chatting with me in later years of these times, he said:

'I was called to the Bar in 1859. I never lived in Liverpool. That is a mistake about me. I always lived in London. I practised in the Passage Court in Liverpool—an important Court at the time. Herschell practised there too. My other competitors were Holker, Gully, Pope. I remember receiving my first brief. I got it in London the day of my Call. It was for an opinion on a will case, and was marked *2l. 2s.* I wrote an elaborate treatise on the law of wills and never got paid. I do not know that I felt very anxious about my career, though I suppose I ought to have felt anxious. Still, I think I took matters coolly enough. I had a fair business from the start. I made about *120l.* in my first year, and doubled my income every year for four years. My first important case, I think, was the Windham lunacy case. I had a subordinate position, but I made a speech, and a good little speech too. I do not think that I ever desponded. I will give you a curious instance of the feeling of despair which sometimes comes over men—and able men too. During my first years at the Bar, Gully, Herschell, and I dined together on circuit one night. Gully and Herschell were in a very desponding mood. They almost despaired of success in England. Gully—I think it was Gully—proposed going to the Straits Settlements, and Herschell to the Indian Bar. It is curious to think of that night now, and to remember what those men ultimately

became—Herschell Lord Chancellor, and Gully Speaker of the House of Commons. Besides the Bar, I made some money on the Press.

'There is another mistake about me which I should like to put right. It is often said that I was a reporter in the gallery of the House of Commons. I never was a reporter, I never wrote shorthand. I used to go to the gallery occasionally when some great debate was on, to write an article or letter about it, but that was all. I was not even a regular attendant at the House. I used never to "Lobby" in the usual sense of the word. In fact, I concentrated my attention on the Bar. I did not allow myself to be distracted. It is the only way you can succeed at the Bar—or at anything.'

Russell's first fee-book is before me, and the entries bear out his recollection of his income during the first four years. In 1859 he made, in round figures, 117*l.*; in 1860, 261*l.*; in 1861, 441*l.*; and in 1862, 1,016*l.* Between 1863 and 1870 his progress was steady and assured. His practice, doubtless, was still chiefly in the Passage Court, and his business on circuit confined mainly to Liverpool; yet he was forging his way ahead, and already stood in the front rank at the Junior Bar. The record of his fees is perhaps the best evidence of his position at this time. In 1863 he made 1,089*l.*; in 1864, 1,739*l.*; in 1865, 2,171*l.*; in 1866, 2,367*l.*; in 1867, 3,108*l.*; in 1868, 3,027*l.*; in 1869, 3,358*l.*; and in 1870, 4,230*l.*

From the very outset he seems to have shown those characteristics—a clear head, a strong will, an imperious temper, and an independent spirit—with which all who knew him soon became familiar. 'I remember,' says an

old member of the circuit, 'one day in the early sixties seeing a junior barrister sitting in the second row in the Civil Court in Liverpool, and making very audible comments on the case in progress, although not briefed in it, and also taking a good deal of snuff. In answer to my inquiry "Who is he?" my neighbour said, "It is Charles Russell—doing a good business in the Passage Court." He was at that time looked upon as a coming man. I heard a senior say that he was the very best junior on the circuit.' He must have been something of a terrible junior, too. 'It was very soon after my first introduction to him,' continues my informant, 'that he was briefed in so many cases that he had no time to listen to, or comment on, those in which he was not engaged. He did, however, make plenty of audible comments both to and on his leaders in the cases in which he was junior. "Ask him" (the witness) "so-and-so." "Good Heavens! why don't you ask him that?" I remember his once saying to his leader. The leader turned round expostulating, but with a certain degree of meekness, and said, "Now, I wish you wouldn't. You know you promised me faithfully this morning that you wouldn't." I don't remember that this appeal had any very practical effect.'

Sir Edward Russell, the Editor of the Liverpool *Daily Post*, relates the following incident of Russell's early years at the Bar: 'I was always fond of going into law courts, and one day went into one of the Courts of Guildhall when Lord Russell of Killowen—then Mr. Charles Russell—was a very young man. The judge on the bench was old Mr. Justice Crompton. The plaintiff was a bill-discounter and money-lender.

His leading counsel was Mr. Edwin James. After a very short time the great advocate threw down his brief ostentatiously before him, and without a word of explicit explanation walked out of court.

'The case went on, and the time came when the counsel for the bill-discounter should have replied and put the case finally to the jury. Up stood a junior counsel, when the judge very testily said, "What do you want, sir?" The young counsel said, "I am for the plaintiff, my Lord, and I purpose, with your permission, to address the jury." The veteran judge became more testy than ever. "Don't you know," said he, "that your leader has left the court?" "Yes, my Lord," replied the young counsel very respectfully, but not flinching a bit, "I know that Mr. James has retired, but I still think there are some points that should be laid before the jury." The point of the matter, of course, was that the plaintiff had turned out such a scoundrel that Edwin James would have nothing to do with him, whereas his young junior saw some points that might be made, and felt it his duty to make them. Mr. Justice Crompton threw himself back in his chair, and with an air of vexation not often seen on the bench, said, "Oh, go on!" And the young counsel went on. He made a clear, emphatic, earnest speech, not disguising the nature of the case or talking any nonsense at all, but putting what could be said in the best possible manner. Before he had uttered many sentences the judge leaned forward again, and still with vexation in his tone, said, "What's your name?" To which the reply was, "Charles Russell, my Lord." And then the young man's speech continued.

'By the time it was over, Mr. Justice Crompton's wrath had entirely disappeared, and when young Charles Russell—destined eventually to become Lord Chief Justice of England—sat down, the judge said to him very kindly and politely, "Well, Mr. Russell, I thought it was a piece of great impertinence for you to put yourself forward to address the jury when your leader had thrown up the case; but I must say that the ability with which you have spoken, and the skill with which you have made the best points that could be made in a hopeless case, have quite vindicated any presumption there might be in what you did." And then, with a bow that was very cordial, he turned from the counsel and began to sum up the case before the jury.'

Some of Russell's Liverpool cases involved not only grave questions of fact affecting commercial interests, but occasionally points of law of the first importance. He followed those cases to London, where they came up for discussion on appeal. Thus, in 1865, he appeared before Lord Westbury in *ex parte* Chavasse, *in re* Grazebrook (originally tried in Liverpool)—a case which 'authoritatively decided that a blockade-running contract is not an unlawful contract, but one from which, subject to the liability to capture, ordinary rights result.'[1] Deeply impressed by his argument, Westbury, a short time afterwards, offered him a County Court judgeship—an offer which was respectfully declined. Though making 3,000*l.* a year in 1867, and having an established reputation on the Northern Circuit, Russell had not much London work. 'I became his pupil,' said a Northern Circuiteer, 'in 1867, and I can recall our first interview.

[1] The *Times*.

I gave him some letters of introduction. He read them, looked at me, and said: "What has induced you to come to the Bar?" I felt rather foolish, but he asked me to dine the same night, which was consolatory. I met at dinner Isaac Butt, John Francis Maguire, and Sir George Bowyer. Russell had very little London work at this time. He would come into chambers between 11 and 12 o'clock, look at the papers on the table, and then go off to play billiards or cards at an adjoining hotel. He would return about 4 P.M. Sometimes he would say to me: "Put on your hat and come for a walk." We would then dash off along the Strand and Piccadilly, Russell walking at a brisk pace, looking straight ahead, with his extraordinary eyes wide open, thinking, thinking, thinking, but never saying a word. I followed like a little boy. When we got to Hyde Park Corner, he would go into the park, expand his chest, take deep draughts of air, and then dash off to the Marble Arch, walk along Oxford Street, and then turn off to Montague Place, whilst I went to my lodgings close by.'

Russell could not sit quietly in chambers. He had to do some practical thing. If he were not working, he was walking. Action was the principle of his life. One day he came into the robing-room at St. George's Hall, Liverpool. Several members of the Junior Bar were standing round the fire. 'Why are you loafing about here?' he said; 'why don't you do something?' 'We have nothing to do,' said the Junior Bar. 'Why don't you go to the races?' he rejoined; '*do* something, don't be moping.'

In 1867 Russell's mother died. She had been poorly for some years. Always bent on works of charity, and

specially anxious to help religious communities, she had over-exerted herself in 1861 in going from town to town in England to purchase and despatch goods and furniture to the Convent of Mercy at San Francisco, where one of her daughters was a nun. On returning to Dublin she had an apoplectic seizure, and though rallying after a time, remained an invalid until her death on August 29, 1867. Careful of her means, solicitous for the welfare of her children, and proud of the part which Charles was already beginning to play in the world, she left him a substantial sum, making a timely addition to his income at a moment when he contemplated his first plunge into politics.

On the dissolution of Parliament in 1868 the borough of Dundalk was represented by Sir George Bowyer, a Catholic Tory. At the General Election Russell, standing as a Liberal, resolved to oppose him. Another Liberal, Mr. Callan, also appeared in the field. On October 3 Russell addressed the electors in what was, I think, one of his best political speeches. I shall give two extracts, one of a personal nature, the other describing the political situation:

Ireland is a mother who has sent forth her children to make their way as best they can all over the world, and it would be hard indeed if, without having done her any discredit, she were to disown them, because their permanent residence is cast in another place. I first saw the light not ten miles from the spot on which I stand. The greater part of my life has been passed in this country, and in this neighbourhood, and I have grown amongst my countrymen, learning to sympathise with and to share their feelings and their aspirations, and, I believe, also learning to understand their wants. With Irish blood in my veins, and Irish sympathies strong at

my heart, I hope I know Ireland well, for here I spent some years in the active pursuit of a profession conversant with men's rights and liberties ; and I hope that, when in Belfast, my voice was at least that of an honest and fearless advocate. In England I follow, as you know, an honourable, but above all an independent, profession ; and they know little of the growing importance of the Irish element in England—little of the condition of the vast crowd of our countrymen who there struggle for a livelihood—who think that in England an honest Irishman, anxious to help his countrymen, cannot find good work to do by helping those movements, sometimes political, but still oftener social and moral, tending to elevate, to purify, and to unite Irishmen. I hope that in this respect I have not wholly failed in my duty, and when I wanted to secure the greatest prize on earth, a good wife, I came to Ireland for her, and I found her ; and in her presence I will say that she would not let me, even if I could, forget that love, reverence and duty which Ireland deserves from her children ; and year by year we find ourselves, when what we call our vacation comes, turning our faces to the West, not altogether unaccompanied, to spend here in the old places, and surrounded by the old friends and old associations, our intervals of grateful leisure.

Passing to the political situation, he said :

The Assizes are not very long completed ; the country is found to be almost free from crime of a serious kind, freer, as I believe, than any place on God's earth ; white gloves have been the order of the day, and yet the Habeas Corpus Act is suspended, the liberty of the people is in peril at any moment, and special commissions here and in England have been trying—are and have been hanging men for offences of a political character, connected with the political condition of the

country. It is idle to say that Fenianism is of American origin, as if that disposed of the matter. Who are the American Fenians, unless they be Irishmen who have brought to America and cherished there a deep sense of their country's wrongs? And who will be bold enough to say that Fenianism, with all the powers arrayed against it, could have made way for a day unless it had the passive sympathy, at least, of a great mass of the people? Well, and what in this state of things is done in the way of legislation? Nothing! The special commissions do their work; 30,000 armed men including 10,000 armed police, Lord Mayo tells us, tread this land, mark ye! to protect Ireland against Irishmen, and the country lapses into silence. Then God smiles upon the land, and a bounteous harvest comes, and a flush, as if of health, comes into the face of the country, and straightway the Prime Minister of the day, who has done no one act of beneficent legislation to benefit the country, takes credit for all—including the fine summer—and lifting his eyes to the fretted ceiling of the Lord Mayor's banqueting-hall in London, thanks Heaven that at length, forsooth, peace and content reign in Ireland. Away with such pitiful statesmanship! I would say with the weight of your sanction that true peace and content are not to be hoped for in Ireland until just and thoroughly remedial measures have been applied. I would say that peace and content are fruits which grow only upon the tree of beneficent legislation. Still there are in the signs of the times, omens of great promise for Ireland. The 'Fenian scare,' as Archbishop Trench calls it, has aroused the attention of the people of England: their eyes are fixed on Ireland; they begin to feel that something must be done, and so at the present day we have the novel and the cheering spectacle of English candidates in England prominently including in their own discussions the question of remedial measures for Ireland, including the Land and

the Church questions, and their soundness in these questions is their best passport to popular support.

The contest was a triangular duel between Sir George Bowyer, Mr. Callan, and Russell. Bowyer was left at the bottom of the poll, and Mr. Callan got in, beating Russell by 21 votes, thus :

Callan	164
Russell	143
Bowyer	72[1]

So ended Russell's first attempt to enter Parliament—an attempt which, as we shall see, was renewed again and again until his efforts were crowned with success. 'We're defeated,' he wrote to his wife, 'but that's all; and I am in capital spirits.'

It was at this time that his opponent circulated the report that Russell was unwilling to be known on the Northern Circuit as an Irishman and a Catholic. Russell wrote :

To suggest of me in any form of words that I was unwilling to be known in England as an Irishman or a Catholic is recklessly untrue and preposterously absurd. My first introduction to Circuit was by a letter from the late Cardinal Wiseman to the present Recorder of Liverpool—a fact that was well known on Circuit within a few days. That marked my creed. I had been only a very short time on Circuit when I spoke at a public dinner, on St. Patrick's anniversary, at the Irish Catholic Club in Liverpool. That marked both my country and my creed. Almost immediately after my call to the Bar my attention was pointedly called to the condition in which Catholics in the workhouses of the country were

[1] There was a fourth candidate who polled 1 vote, but his candidature need not be taken seriously.

placed, and I devoted much labour and time to the advocacy of their rights. I attended many meetings and went on deputations to the Ministers of the day; I attended one Metropolitan meeting in St. James's Hall, London, for the agitation of the question; and I am glad to say that the efforts to which I lent my humble strength resulted in the lessening, if not the removal, of many of the grievances complained of. For this I received the thanks of many distinguished persons, and amongst them of many of the hierarchy of England and Ireland, including the late Cardinal Wiseman and Cardinal Cullen. My heart warmed to this work all the more because it was not alone a religious but a patriotic duty; for, unhappily, the greater number of the poor whose relief was its object were Irishmen in misfortune. It is idle, then, to say that I was not well known in England to be an Irish Catholic. I believe there are few in England who know me at all who do not know me as such, and I believe that on Circuit there is no one ignorant of the fact of my creed and country.

In 1869 he appeared in his second *cause célèbre*, Saurin *v.* Starr. I chatted with him once about the case. He said: 'It was really a trumpery affair. Ordinarily, the cause of action would have excited no interest. But people had expected a great convent scandal, and that gave a certain piquancy to the proceedings. Miss Saurin had been, as you know, a Sister of Mercy. She really had no vocation, and ought never to have gone into a convent. She refused to obey the rules. That was the whole point. Her transgressions were not serious, but she did transgress. Having been reported to the proper ecclesiastical authorities, she was expelled, and then she brought an action for expulsion and

libel. Lord Chief Justice Cockburn tried the case. Coleridge led for the plaintiff, and Mellish led me for the defendant, Mrs. Starr, the Mother Superior. I remember' (with a laugh) 'that I felt a certain personal interest in the proceedings. Mellish was suffering from the gout, and he had to be doctored every morning and evening. I expected every day that he would have broken down, and that the conduct of the case would have fallen into my hands. But he stuck to his guns, and fought the case admirably, so' (smiling) 'I did not get a chance of distinguishing myself. I do not remember that there were any "scenes," and I do not think that there was anything striking in the cross-examination. But I have never forgotten a clever answer given by one of our witnesses—Mrs. Kennedy, a mistress of novices—to Coleridge. Coleridge's case was that the breaches of discipline were trivial, contemptible. He pressed Mrs. Kennedy on the point, asking what had Miss Saurin done. Mrs. Kennedy said, as an example, that she had eaten strawberries. "Eaten strawberries," exclaimed Coleridge, "what harm was there in that?" "It was forbidden, sir," said Mrs. Kennedy—a very proper answer. "But, Mrs. Kennedy," retorted Coleridge, "what trouble was likely to come from eating strawberries?" "Well, sir," replied Mrs. Kennedy, "you might ask what trouble was likely to come from eating an apple, yet we know that trouble did come from it." The answer floored Coleridge. He threw himself back on his seat and laughed. The whole Court laughed. Ultimately the jury found a verdict for the plaintiff. There was an application for a new trial; then the matter was allowed to drop.'

In October, 1869, Russell delivered a lecture on O'Connell in Liverpool. His old friend James Whitty presided. The lecture, on the whole, was dull, but there was one lively bit in it, the description of O'Connell's first appearance at a public meeting:

Here we find ourselves in public for the first time face to face with Daniel O'Connell. They have met to declare that no bribe offered to them as Catholics will induce them to abandon their national rights as Irishmen. Who is this young man whose appearance even then commands attentive applause? Look at him. He is moving a principal resolution and uttering words which are a key to the efforts of his whole life. He is but twenty-five years old, not much above middle height, with shoulders on which responsibility will sit lightly. He is in robust health, and the wavy dark brown hair surmounts a noble brow and surrounds a face on which there are yet no signs of care, but which speak of energy and resolve and the power to command. This is Councillor Daniel O'Connell. He is pathetic, and his blue eyes melt into a look of almost womanly tenderness. He jokes and his merriment, irresistibly contagious, catches the crowd. He is indignant denouncing some public wrong, and his face is one blaze of scorn.

In 1870 Russell first contemplated taking silk. Edward James, the leader of the Circuit—a man of remarkable power—had recently died. Russell was at his death-bed. 'Well, Russell,' he said, 'I feel it is all over with me, but, at least, I shall make room for you, and I hope you will succeed to my place.'

Some time afterwards Russell discussed his prospects with a friend, saying that he intended to apply for silk, adding, 'I believe that I shall soon lead the Circuit.'

The friend, on the whole, agreed with him, but said, 'You have formidable competitors—Holker, Herschell.' 'Oh! John Holker,' said Russell; 'I admit that he is a better man than I am, but then he won't stay long: but Herschell! you surprise me. I tell you honestly, I never dreamt of Herschell as a competitor of mine.' But a competitor, and a formidable competitor, Herschell proved to be. I remember asking Russell in 1885 whom he regarded as his most formidable antagonist at the Bar, and he answered 'Herschell.'

In September, 1870, he wrote to Mr. Justice Lush:

> Mr. Manisty has publicly announced his resolve not again to go on Circuit, and Mr. Milward says he will not long be on Circuit.
>
> I am, under these circumstances, advised that I ought to ask the Lord Chancellor for a silk gown.
>
> Your Lordship knows that although within the last few years some additions have been made to the front row, the secessions from it have been very important, including Mr. James, Mr. Temple, and Mr. (now Mr. Justice) Brett, amongst others. May I ask your Lordship's kind word, should the opportunity offer, in my behalf, and may I refer the Lord Chancellor to you as to my position on Circuit?

Russell did not get silk in 1870. He applied again in February 1871, and in October 1871. He got silk at length in Hilary Term, 1872. In the same year he became a Bencher of Lincoln's Inn, and changed his residence from Montague Place to Harley Street. It was about this time that a friend said to him: 'Russell, if you could only give up your Irish brogue, it would be worth to you, at least, another 500*l.* a year.' 'I would not give it up,' said Russell, 'for the additional 500*l.*'

CHAPTER VII

SILK: CHARACTERISTICS

It has been well said, that there is no royal road to success at the Bar—nor, indeed, at anything else. Every one must work. No man worked harder than Charles Russell. Genius, we all know, has been defined as 'an infinite capacity for taking pains.' He possessed this capacity in a remarkable degree. 'When Russell practised as a solicitor in Belfast' (says an old inhabitant of that town), 'I was a witness in a case in which he was engaged. I was greatly struck by the extraordinary pains he took in what was really a trumpery affair. He was as exacting in getting information from me, and in learning all that could be learned about the business, as if thousands were involved.' 'I was a juror,' writes a Liverpool man, 'in a case in which Mr. Russell appeared. I was surprised at the trouble which he took in looking into everything, though it was quite a trifling matter.'

'There was no man like him for taking pains; he never spared himself,' says a solicitor who knew him from the beginning of his career at the Bar.

'What a fool I am,' he was once heard to say on entering the robing-room, flushed with his exertions in Court, 'knocking myself to pieces about a twopenny-halfpenny dispute.' But he could not help 'knocking

himself to pieces' whatever was the character of the 'dispute.' It was his nature. On one occasion he used 'unparliamentary language' to a solicitor. 'I do not mind your swearing at me, Mr. Russell,' said the solicitor, 'so long as you don't do it in the presence of the client.' Russell laughed and said, 'It is my anxiety about the client that makes me swear at all.'

His early cases in Liverpool were chiefly commercial cases. For their conduct, a knowledge of the customs and terms of trade was as important as a knowledge of law. Russell made himself master of these customs and terms. He would sit late into the night or morning with some expert friend—generally the son of John Yates—to be 'coached' in commercial routine; and when he came to examine and to cross-examine witnesses he showed an intimacy with the details of business which astonished the initiated—particularly the initiated who were under cross-examination. Russell's motto was 'Thorough!' He believed profoundly in the maxim, 'Whatever is worth doing, is worth doing well.' In all that came to his hand he spared neither himself nor those associated with him to secure success.

One day on Circuit a barrister went into the library. He saw a man working up some cases. 'What are you doing?' he asked. 'Working up cases for Russell,' was the answer. He went round the library, and found that there were not less than six men 'working up cases for Russell.' 'Why,' said he, 'the whole library seems to be working for Russell.' 'Yes,' said the sixth man, 'there are six of us doing the work of one man, in order that one man may do the work of six.' It has been said that Russell 'devilled' everything. He certainly reduced

'devilling' to an exact science. He had a wonderful faculty for using the brains and knowledge of other men —a faculty which may be regarded as the very highest acquisition of the advocate. You might know the facts, you might possess a knowledge of the subject far in excess of Russell, but he could turn those facts to account; he could make that knowledge valuable in a way altogether unexpected and *unique*.

It was an intellectual treat to work with him. To have one's mind drawn through Russell's was as bracing and healthful an operation as any person might desire. 'To work with you,' I once said to him, 'is as good (or as bad) as to go through a course of Austin's "Jurisprudence."' 'I like to be exact,' was the rejoinder. '(So-and-so),' he would say, 'has a perfect genius for inaccuracy. He is always in the air.' Inaccuracy and being 'in the air' were the things which Russell hated most. The things he loved best were accuracy, lucidity, brevity, and keeping to the point. So long as you kept these four things in mind you might agree or disagree with him, you might be conciliatory or aggressive, but he listened to you with attention, and treated your arguments and views with respect. He was only intolerant of stupidity, folly, verbosity, and affectation. Upon one occasion he asked a pretentious coxcomb, 'Have you ever read "The Newcomes"?' 'Yes,' drawled the coxcomb. 'Well,' said Russell, 'you are very like Barnes Newcome.'

A man who had a 'grievance'—the result, in no small degree, of his own folly—plagued Russell with his story, as they walked together from Charing Cross to Oxford Circus. 'Now, Russell,' said the man, when they got to the

Circus, 'I have told you my whole story, and I would like to know what you think!' 'I think you are a great fool,' said Russell as he turned off to Harley Street.

Russell never assumed knowledge; on the contrary, he assumed ignorance. In consultation he sought information from every one, asked questions of every one, argued with every one, tested every one, and, it must be added, put every one on his mettle. 'Russell,' says a solicitor, 'was not an over-confident man; quite the reverse. He was anxious to consult with every one of intelligence; to get help and advice all round. But then, when he had made up his mind finally, he had the faculty of impressing you with the conviction that he had immense confidence in himself and in his case.'

'The difference,' says a distinguished lawyer, 'between Russell and ——' (naming another Q.C.) 'was this. In consultation Russell appeared to know nothing, and listened eagerly to everything you had to say. —— appeared to know everything, and brushed your suggestions aside contemptuously. When Russell came into Court, he knew everything. When —— came into Court, he knew nothing.'

When Russell had, so to say, pulled out of the 'ruck,' the leaders on the Northern Circuit were Edward James (Attorney-General for the County Palatine), Brett, Milward, Mellish, Quain, Manisty, Butt, Aspinall, Temple; the leading juniors being Holker, R. G. Williams, Russell, Crompton, Gully, Herschell, Pope.

In 1872, James, Brett, Mellish, Quain, Manisty, had left the Circuit,[1] and the leaders now were Holker, Russell, Herschell, Benjamin, Pope, Aspinall, Butt,

[1] Brett, Mellish, and Quain had become judges.

Temple, and Joseph Kay. Gully, though standing well to the front, had not yet taken silk, and among the coming men was Richard Henn Collins. Holker—a man of rare powers—was Russell's most formidable antagonist. Indeed, it has been said that he was the 'greater advocate,' though Russell was the 'greater man.' I have heard them compared: Holker—massive, immovable, impenetrable—to a 'rock,' Russell—eager, hot, impetuous—to the 'sea' fiercely dashing against it. In the end the 'rock' was worn slowly away, and the 'sea' overflowed everywhere. Russell became *par excellence* the leader of the Circuit. Next to Holker, Russell himself regarded Herschell and Pope as the ablest men on the Circuit. He once said to me, 'My chief contemporaries on circuit were Pope, Herschell, Holker. Holker was a formidable opponent, so was Herschell; Pope was a very able man, but not a lawyer in the same sense as Herschell and myself. I do not think Pope was suited for *Nisi Prius* business. He was better suited for Parliamentary business. He was certainly suited for politics. Had he gone in for politics, he would have been a greater success in the House of Commons than either Herschell or myself: had Herschell and I been different men, the work on the Northern Circuit would not have gone so smoothly or so quickly as it did. We were both quick; we lost no time in coming to the point, and we kept to it. We understood and trusted each other.'

'When,' it has been said, 'Disraeli described "the legal mind as chiefly displaying itself in illustrating the obvious, explaining the evident, and expatiating on the commonplace," he dealt it a shrewd knock under which it still staggers; and it was no part of his duty to point

out how disastrous it would be if great advocates and strong judges were to conduct the legal business of the country without regard to the obvious, the evident and the commonplace, which, however boring they may be in private life or in the House of Commons, are the sheet anchors of liberty and justice in courts of law, and cannot be illustrated, explained, or even expatiated upon too much.'

Russell was well content to confine himself to the obvious and the evident. His was not a subtle mind, nor was it stored with the fruit of great reading. His genius, however, saved him from expatiating at *too* great length upon the commonplace. He made his points with clearness and drove them home with force, but he knew when his task was done. A great orator he was not, and except on occasions he was hardly an eloquent speaker. In the early days of his career words did not come to him at will ; and he had to take great pains to attain the measure of fluency he possessed. When all this has been said, the fact remains that without these natural endowments Russell accomplished the end they are supposed to serve. In truth he was more than a great orator ; he was a great personality.

His roughness of demeanour and dominating manner did not make enemies. Bowen well described him as an 'elemental force,' and elemental forces are occasionally very disagreeable. The judges who found him difficult to manage, opposing counsel who resented his manner, were none the less glad to have him in the case. It made it interesting and important. Russell was one of those men whose coming in and going out of a room made a difference. The moment he came into Court, the jury at

all events pretended to take an interest and even notes ; and yet Russell was delightfully free from a self-conscious swagger. He was not in the least degree an egoist. Prosperity did him good ; and it is a good man who is softened and mellowed by good fortune. As a rule very prosperous people are best avoided ; their prosperity is likely to have knocked the humanity out of their hearts. But Russell grew gentler and more considerate of others the longer he lived.

Though not a great orator, he had all the instincts of the advocate. He knew the points to seize, he watched every turn of the jury, he could see at a glance what was telling with them ; nothing escaped him, every accident, everything that arose in the progress of the case, he knew how to use to the best advantage. This is the *fleur* of the advocate. In ordinary cases, the junior concentrates his whole attention on the leader at the other side ; that is the man you have got to watch. But Russell's junior had to concentrate his attention on his own leader. You could not think of anything nor of any one else. You watched him with interest and alarm ; never knew what he might do next or what he might want. In ordinary cases, the defence or attack, as the case may be, is planned out in consultation. In Court, you follow the lines there laid down. But Russell would, in the presence of the enemy, and in the twinkling of an eye, change the whole line of battle, and if you did not wheel round as rapidly as he——

One day a junior was taking a note in the orthodox fashion, and this note-taking sometimes degenerates into a mere mechanical operation. Russell was taking no note, but he was thoroughly on the alert, glancing about

the Court, sometimes at the judge, sometimes at the jury, sometimes at the witness or the counsel on the other side. Suddenly he turned to the junior and said, 'What are you doing?' 'Taking a note,' was the answer. 'What the devil do you mean by saying you are taking a note? Why don't you watch the case?' he burst out. *He* had been 'watching' the case. Something had happened to make a change of front necessary, and he wheeled his colleagues round almost before they had time to grasp the new situation. Russell would have made a great general. Indeed, some one said it was a pity he ever went to the Bar; that he was meant to be a man of action.

He was no respecter of persons. He feared no one. His blows fell indiscriminately on leaders and juniors, and even, when the occasion warranted it, on judges. The young men liked him: in fact they were proud of him. There was a bigness about the man that all appreciated. He sometimes gave offence without intending it, and when the fact was pointed out to him he could make the *amende* in a very generous way. He would make it to barrister or judge as the case might be, and always in a style that gave satisfaction. He was always big: that was his great characteristic.

'What the devil do you mean by saying you are taking a note? Why don't you watch the case?' I told this story to a barrister who knew Russell. He said, 'How like Russell! It was just the same in playing cards with him. He used sometimes to insist on my playing whist, and, worse still, on my being his partner. I knew very little about whist. Whenever a card was played I used to look at my hand to see what I had got. Russell would get

very impatient at this. He would rap the table and say, "Why are you looking at your cards; why don't you watch the game? The game is on the table." *He* did not want to look at his cards. He had examined them carefully beforehand; they were all at the back of his head. He was only interested in finding out what the others had, and "watched the game" for that purpose. So it was in law. The game was on the table there too. He knew all that could be known about his case before he came into Court. In Court he watched the other side, and "played" on the instant without "looking at his hand."'

An illustration may be given of the quickness with which he would seize a point which told in his favour. There was an action brought by the relatives of ——, who had given a large fortune to members of one of the orders of Plymouth Brethren, to recover what remained of that fortune. Russell read, in his opening speech, a letter which had been written by one of the defendants, beginning in these terms:

'We have decided that we cannot maintain a position antagonistic to the relatives of our late dear friend and live upon Christian (Matthew v.) as well as other grounds. Under these circumstances we write to say that we are prepared to give you any satisfaction in our power,' &c. Then Russell quoted as the verse from the 5th chapter of St. Matthew, verse 25: 'Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison.' Whereupon the opposing counsel pointed out that no individual verse was given in the letter, and Russell asked,

'What do you say is the verse?' His adversary quoted verse 40, 'If any man will sue thee at the law, and take away thy coat, let him have thy cloak also.' And Russell rejoined, 'We do not want the gentleman's coat at all. We want some one else's coat or cloak, which he has been appropriating.'

It has been said that Russell's success in cross-examination, like his success in everything, was due to force of character. Others were as skilful, some had more finish, but none possessed the striking personality of the late Chief. Some great advocates trip up witnesses, lead them into traps, circumvent them. In Russell's case, to skill and adroitness were added strength of will, and the overwhelming influence of an irresistible individuality. 'Some men,' says a barrister who often saw Russell in action, 'get in a bit of the nail, and there they leave it hanging loosely about until the judge or some one else pulls it out. But when Russell got in a bit of the nail, he never stopped until he drove it home. No man ever pulled that nail out again.'

Once I had a chat with Russell about cross-examination, and particularly about his method. I said that the three greatest cross-examiners I had ever heard were Serjeant Sullivan—'the little Serjeant,' as he was popularly called—of the Irish Bar (afterwards Master of the Rolls in Ireland), Serjeant Armstrong—the 'big Serjeant'—also of the Irish Bar, and himself. Of the three, I added that the 'little Serjeant,' in dexterity and skill, was perhaps the greatest. The methods of the two Serjeants were different from his. Sullivan approached the witness quite in a friendly way, seemed to be an impartial inquirer seeking information, looked surprised at

what the witness said, appeared even grateful for the additional light thrown on the case. 'Ah, indeed!' 'Well, as you have said so much, perhaps you can help us a little further.' 'Well, really, my Lord, this is a very intelligent man.' So, playing the witness with caution and skill, drawing him stealthily on, keeping him completely in the dark about the real point of attack, the 'little Serjeant' waited until the man was in the meshes, and then flew at him and shook him as a terrier would a rat. The 'big Serjeant' had more humour and more power, but less dexterity and resource. His great weapon was ridicule. He laughed at the witness, and made everybody else laugh. The witness got confused and lost his temper, and then Armstrong pounded him like a champion of the ring.[1]

I said to Russell, 'Your methods are altogether different, you don't as a rule manœuvre, you go straight at the witness. I have heard it said that you don't even much care whether the witness sees the point for which you are making. You take him by the throat and drag him there.' He said, 'In dealing with an English jury it

[1] He once cross-examined an 'expert' in handwriting, when the following scene occurred:

Armstrong: 'What about the dog?

Witness (confused): 'I do not understand.'

Armstrong (slowly and deliberately): 'What—about—the—dog?'

Witness (yet more perplexed): 'My Lord, I do not understand what the Serjeant means.'

The Judge: 'Neither do I.'

Armstrong (taking not the least notice of either witness or judge, but repeating the question yet more slowly and deliberately): 'What——about——the——dog?'

Witness (losing all patience and bursting out angrily): 'What dog?'

The Serjeant: 'The dog that Chief Baron Pigott said he would not hang on your evidence.'

is better to go straight to the point; the less *finesse* the better. It is different with an Irish jury. An Irish jury enjoys the trial. They can follow every turn of the game. They understand the points of skill; the play between an Irish witness and an Irish counsel is good fun, and they like the fun, and they don't mind the loss of time. They get as good value out of a trial as they would out of the theatre. With an English jury it is different. They are busy men and they want to get away quickly. The great thing in dealing with an English jury is not to lose time. Mere *finesse* they don't appreciate; go straight at the witness and at the point; throw your cards on the table. It is a simple method, and I think it is a good method.'

Talking with characteristic simplicity and modesty, he did not seem to recognise that it was only a man of great strength who could practise this method with success, who could play the game with his 'cards on the table.' It was a fine sight to see him rise to cross-examine. His very appearance must have been a shock to the witness—the manly, defiant bearing, the noble brow, the haughty look, the remorseless mouth, those deep-set eyes, widely opened, and that searching glance which pierced the very soul. 'Russell,' said a member of the Northern Circuit, 'produced the same effect on a witness that a cobra produces on a rabbit.' In a certain case he appeared on the wrong side. Thirty-two witnesses were called, thirty-one on the wrong side and one on the right side. Not one of the thirty-one was broken down in cross-examination; but the one on the right side was utterly annihilated. 'How is Russell getting on?' a friend asked one of the judges of the Parnell Commission, during the days of Pigott's cross-

examination. 'Master Charlie is bowling very straight,' was the answer. 'Master Charlie' always bowled 'very straight,' and the man at the wicket generally came quickly to grief. I have myself seen him approach a witness with great gentleness—the gentleness of a lion reconnoitring his prey. I have also seen him fly at a witness with the fierceness of a tiger. But, gentle or fierce, he must have always looked a very ugly object to the man who had come into the box to lie.

As a speaker, as in everything, Russell was simple, strenuous, direct, straightforward. His method may be described in a sentence—a clear statement driven home with the hammer of Thor. 'Clearness, force, and earnestness,' he tells us himself, quoting Daniel Webster, 'are the qualities which produce conviction.' In addressing the jury, as in cross-examining the witnesses, it was Russell's personality that really told.

'I once,' says a barrister, 'had an opportunity of realising the effect which Russell must have always produced on juries. I came into Court just as he was about to speak in some great case the particulars of which I now forget. I got near the jury box, and had a good view of him—could see every expression, every gesture, every glance. I then realised for the first time what a splendid man he was, what an impressive personality. I forget what he said. I could not tell you whether the speech was good or bad. But I don't forget Russell; he appears before me now as vividly as when I saw him on that day. He seemed to me to be quite irresistible, not for anything he said, but for the whole appearance and demeanour of the man.' This is a true description. Eloquent only on occasions; as a rule, lacking literary form

and rhetorical finish, deficient in humour, and devoid of wit, he possessed few of the qualities with which one generally associates the idea of oratory. And yet Charles Russell, sitting quietly in Court, taking no note, looking calmly around, and occasionally tapping the lid of the ever-present snuff-box, dominated every person who came within the sphere of his influence. 'To what do you ascribe Russell's great success?' a friend said to Lord Coleridge; 'he does not seem to me to possess more remarkable qualities than other eminent men, to be a better speaker, to have more intellectual power; how does he do it?' 'He imposes himself upon the jury and the Court,' was the answer: and his Lordship added, 'He is the biggest advocate of the century.' 'Ordinarily,' says a shrewd observer, 'the judge dominates the jury, the counsel the public—he is the central figure of the piece. But when Russell is there, the judge isn't in it. Russell dominates every one.'

'It is a pity,' said some one, 'that Russell is not a little more tolerant of the judge.'

At an Assize dinner at Bristol in August, 1880, Coleridge said loud enough for all to hear: 'Charles Russell is far the ablest man not only of the party, but the best man in Westminster Hall—so good all round.'

'When you go,' Coleridge wrote to him in 1883, 'it will take four men *at least* to replace you.'

It has been asserted that Russell was not a lawyer. Perhaps all that can be said upon that point has been said with characteristic discrimination by Lord Bowen: 'Russell may not know law, but no man can argue a law point better.' 'Russell knew more law than he got credit for,' says an eminent judge: 'he did not know

cases, he knew principles. His knowledge of principles and his common sense were enough. The cases were got up for him.' 'Some of us,' Lord Bowen said to myself, 'may know more law, some of us may have what is called more culture, but Russell differs from us all at the Bar or on the Bench in this—he has genius.'

Russell was one of the most loyal as well as one of the most courageous of colleagues. On one occasion he determined to use certain letters in cross-examination. His junior did not approve of this course. Russell was obliged to leave the court before the witness was called. He said to his junior, 'I must now go, but if —— is called in my absence, you must put these letters to him in cross-examination.' The junior said, 'Certainly, if you wish it; but I am sorry that you will not be here to deal with the matter. It will raise a storm which you can face better than I.' 'I am sorry, too,' said Russell, 'but I must go; I will, however, do my best to get back in time; but if I fail, you must put in the letters.' An hour or so later the witness was called. The junior rose to cross-examine. He had scarcely begun when he heard a bustle at the end of the Court, and Russell appeared shouldering his way through the crowd, and pulling on his gown. 'Give me the letters,' he said, as he faced the witness, and the junior sat down. He had arrived in the nick of time.

Russell's relations with solicitors were peculiar. Most members of the Bar are polite if not gracious to the men who distribute the briefs. Russell was not polite; he was sometimes scarcely civil. 'Russell was always independent,' says a member of the Bar; 'he never allowed solicitors to dictate to him.' 'The way

he treated solicitors won't bear repeating,' says one who knew what he was talking about, adding significantly, 'On the Northern Circuit it was customary to use very strong language.'

And yet he was briefed by all solicitors. The fact is an eloquent tribute to his genius.

'I doubt' (says a solicitor who held Russell in high esteem and liked him) 'if Russell could ever have been considered popular among solicitors. He was apt to blame them if a paper were not forthcoming instantly, or if evidence were wanting at a moment's notice, and he often thoughtlessly expressed his dissatisfaction in the hearing of their clients and in unparliamentary language. Yet I should like to say that during the whole time I knew him, and especially when he was at the very height of his position as leader of the Circuit, I met with nothing but kindness from him. I often spoke to him about his rough treatment of solicitors, including myself, and told him how much many of us resented it. He always said he could not help it, that it came of the intense interest he was taking in the conduct of the case, and I believe this was the real explanation. He always allowed me to talk to him about my personal affairs, and for my own part there was no one whose guidance I valued so much.'

Most people found out sooner or later that beneath Russell's roughness there was a kind and warm heart.

'The instances of Russell's kind-heartedness are too numerous to mention,' says a barrister. 'He came to see me when I had the small-pox, and went to see another barrister who had scarlet fever, and, guessing that the patient was not too well off, left, without any one noticing

it, several 5*l.* notes in the house. On another occasion also he was especially kind to a member of the Bar who was by no means a friend of his, and hearing that he had bailiffs in the house he went off immediately and paid them out. He never spoke of any kind action he did.'

An amusing illustration has been given to me of Russell's imperious nature and tender heart, both characteristics being displayed at one and the same moment:

'I had left the Northern Circuit' (says an old friend) 'to take up a judicial position in a large town in the provinces, which was also an assize town. On one occasion Russell came down special to conduct an important case at the Assizes. He brought it to an end early one morning (after a couple of days' fighting), and presently I saw him shouldering his way through a large crowd into my court. Every one made way for him though no one knew him, and he walked straight on to the Bench, sat down on a chair near me, took out his snuff-box and the well-known bandana (without a word or sign to me), and was instantly absorbed in the cases. Among the applicants were the wives of debtors applying for the suspension of the orders of payment, or commitment, made against their husbands. Wife after wife entered the box with shawls over their heads, and babes in their arms, and detailed, with more or less truth, the destitution in which they were. In a very few minutes Russell was greatly moved, and would exclaim, "Poor creature, poor creature!" and then when one wandered a good deal, and perhaps evaded a little the questions which it was my duty to ask, he would break in with,

"Now listen, ma'am, to what the judge says, and pray give an answer immediately." People seemed a good deal surprised, and I fancy would presently have been more surprised if he had remained a little longer, for I have no doubt that in ten minutes he would have been trying all the applications and cases, and gathered into his grip all the business of the Court; but fortunately his time was up, and he strode off to catch his train.'

I have said that Russell hated affectation. He was once instructed by a solicitor full of bounce and impudence. The brief was a huge compilation drawn up, as the solicitor doubtless thought, in a style of literary distinction. There was a consultation at Russell's chambers, on the rising of the Court. Client, junior, solicitor were in attendance at the appointed hour. Russell came in, in wig and gown, sat on his chair, took off his wig, and then turning to the solicitor said, without any preliminary remark whatever, 'Well, Mr. A., I have read every word of your brief, and there is neither sense, fact, nor law in it from beginning to end.' Next day the case came on for trial. It was a case of great difficulty. Russell was anxious and irritable. The solicitor had not put in an appearance when the proceedings commenced. Russell was impatient and looked angrily around. At length Mr. A. arrived, resplendent in a fur coat and carrying a Tennysonian hat in his hand. Russell hated fur coats as much as he hated pretence and pomposity. With a fierce glance he beckoned A. to his side, and in a low angry voice said, 'The case has been on for half an hour. You ought to have been here long ago. Take off that coat this instant and sit down in that chair.' A. looked amazed. The Junior Bar, who expected a

'scene,' tittered. A. stood for an instant irresolute, and then, like a man gradually falling under some hypnotic influence, took off his coat, folded it, put it on the chair, and sat on it.

One day in Court the lay client in a case turned round and made some suggestion to Russell. 'Who is that unpleasant-looking man who spoke to me?' said Russell with a frown to the solicitor, who happened to be sitting by the side of the client. 'That's your client,' said the solicitor. 'Then I must trouble you,' said Russell, 'to ask him to go to some part of the Court where I cannot see him.' The solicitor conveyed this request in diplomatic language to the client. The client, however, did not quite see why he should change his place, and said so. 'Tell him,' said Russell addressing the solicitor, 'that if he does not go at once where I can't see him, I won't go on with the case.' The client immediately disappeared. A pompous 'expert,' who had been in the habit of laying down the law before Parliamentary Committees, once attended a consultation at Russell's chambers. 'Gentlemen,' said he, while Russell was engaged in conversation with the other counsel, 'if you will allow me, I shall give you my view of this case——'

'Hold your tongue,' said Russell, 'till you are asked for your view!' He did not like any one to put a hat on his table, or to touch him. One day a pompous solicitor came in. 'How do you do, Mr. Russell, how do you do?' he said, walking straight forward and putting his hat on the table. 'Take your hat off the table,' was Russell's sole reply. The solicitor was offended, and took a back seat when the consultation began. During the consultation there was an argument between Russell and his junior.

Every one got interested. The solicitor got excited, and, jumping up, touched Russell, saying, 'I think you are mistaken, Mr. Russell.' Said Russell, 'Take your hand away!'

'I am not prepared to admit' (said a solicitor who knew Russell well) 'that Russell was rough in consultation. The difference between him and other counsel was this. Suppose there was a stupid client who was making a fool of himself, other counsel would humour him, and treat him as if he were intelligent. Russell acted differently. He would ask the client a question. If the client gave a silly answer, he would say, "You are a fool," and so leave the matter. I don't call that roughness; I call it honesty.'

Russell attended to the smallest details in a case; he forgot nothing, he overlooked nothing. Once he was engaged in a breach of promise action. 'The case,' says his devil, 'was a simple one, and practically the question was the amount of damages which the plaintiff would get.

'Directly his junior and the solicitor had seated themselves in his room for the consultation, he turned to the latter and asked, "What is your client going to wear at the trial?" The solicitor replied that he had not the faintest idea. Russell then said, "Take her to-morrow to her dressmaker, and order a perfectly plain dress of a soft grey colour, fitting closely to the figure, without any trimming, and a big black hat, also as simple as possible."

'The consultation was very short and the case itself was practically not discussed—indeed there was little to discuss in it.

'Russell's client got a verdict for 10,000*l.* In divorce cases he thought ladies ought to be dressed in black. He used to say that at least they ought to pretend to be sorry.'

It has been said that Russell kept up the scale of fees on Circuit. There never lived a more generous—a more lavishly generous—man than Charles Russell: but in professional matters he exacted fees which he considered just and befitting the dignity of his calling. This practice, however, increased his unpopularity among solicitors, for they thought that the high scale of fees would tend to diminish business. Once the Liverpool solicitors resolved to teach him a lesson. Mr. Birrell tells the story. 'When Russell took silk, he at once stepped into a great business on Circuit, which he retained till he wanted it no more. The Liverpool solicitors occasionally resented Russell's imperious manners, and once they all (or nearly all) plucked up courage to teach this great Irishman a lesson in humility. They determined to boycott him for one Assize. He was to come to Liverpool and find nothing for him to do. It was a great plot, and would certainly have led to a great explosion. But one leading firm, with important briefs to distribute, held aloof; their refusal to join the conspiracy destroyed it. Russell came to Liverpool and got all the briefs as usual. I do not know that he even so much as ever heard of the plot.' Russell, however, did, I believe, hear of the plot, but laughed at it. He knew well that he was indispensable.

'Russell' (says a Northern Circuiteer) 'differed from all the men on the Circuit in this respect; he was a splendid

all-round man. Some men were good for legal argument, others were first-rate in commercial cases, others admirable in what are called sensational actions—libel or breach of promise; others came to the front in criminal causes, but Russell excelled in everything. Whatever he went into he came out top.'

CHAPTER VIII

FORGING AHEAD

I HAVE now told the story of Russell's career at the Bar from 1859 to 1872. It is the ordinary story of the young barrister. He had to wait his chance, to watch his opportunity. The chance, however, it must be confessed, came sooner than in the case of most barristers. Eldon was called to the Bar at the age of twenty-four. Russell was called at the age of twenty-six. In his first year Eldon made a guinea. In his first year Russell made nearly 120*l.* In the three years following his call Eldon practically did nothing. He was filled with despair. He had made up his mind to leave London, and to become a 'local' in his native town of Newcastle, when his chance came, merely by accident, and the case of Ackroyd *v.* Smithson gave him the opportunity of showing the stuff that was in him. During the three years that followed his call, Russell doubled his income every year. He never despaired. From the moment he put his hand to the plough he never looked back. Unlike Eldon, he did not, in a few years, get the opportunity of playing a prominent part in an important case. But he got business—ordinary business—from the very start; and he did it well, proving himself on every occasion to be a clear-headed, painstaking, strenuous man. He did

not get his Ackroyd *v.* Smithson until he was eighteen years at the Bar; but Eldon had no John Yates. The genius of the one man, favoured by an accident, blazed out in a moment. The genius of the other, fostered by a single friend, glowed all the time.

In 1871, the year before he took silk, Russell made, in round figures, 3,000*l.*; in 1872, he made 4,000*l.*; in 1873, 5,400*l.*

In his 'young days in silk' there was, on one occasion, a passage of arms between him and the Bench, marked by an unusual humorous sally on his part. I shall tell the story in the words of Mr. Charles Mathews.[1] 'In Mr. Russell's young days in silk, when the late Mr. Justice Denman was going the Northern Circuit, just before the rising of the Court, on a warm summer afternoon, some very high words were flung from the Bar to the Bench in a tone and with a vehemence which caused the learned judge to say that he would not trust himself to reprove them in his then condition of sorrow and resentment, but would take the night to consider what he ought to do, and when they met again the next morning he would announce his determination. In considerable commotion the Court broke up, and on the following day it was crowded in anticipation of "a scene," an anticipation somewhat encouraged by Mr. Justice Denman's entry into Court with if possible more than ordinary solemnity, and on taking his seat, commencing the business of the day by saying: "Mr. Russell, since the Court adjourned last evening I have had the advantage of considering with my brother judge the painful incident" . . . Upon which Russell quickly

[1] *Daily Telegraph.*

broke in with, "My Lord, I beg you will not say a word more upon the subject; for I can honestly assure you that I have entirely and for ever dismissed it from my memory"—a turning of the tables which provoked a roar of laughter in the Court that even the learned judge himself could not but join in it.' Another story may be told showing Russell in his usual *rôle* of the strenuous man. 'I recollect,' says an eye-witness, 'an action for breach of promise of marriage, brought by a pretty girl against a wealthy man who had treated her badly. Russell appeared for the defendant.

'Some of the jury evidently sympathised with the plaintiff, and, during her cross-examination, one of them blurted out a strong leading question, showing such animus that we in Court thought Russell would decline to go on with the case before that jury. Instead, he turned round, looked sternly at the juryman, held him fixed for a few moments, whilst he tapped his snuff-box, and taking a pinch, said, with quiet intensity, "Attend to the evidence, sir." The effect on the jury of this rebuke was very marked. They all looked serious, listened attentively, and, in the end, found a verdict for the defendant.'

In December, 1873, he appeared for the defendant in a curious breach of promise action—Nuttall *v.* Wildes—at the Liverpool Assizes. Captain Wildes had divorced his wife. Some time afterwards he met Miss Nuttall, proposed for her, and was accepted. All arrangements were made for the wedding—the day was fixed, the presents were received, the clergyman was engaged, when Captain Wildes, walking down Regent Street, was struck by the appearance of a lady who passed him.

He turned round, and found that she had turned round too. They approached each other. It was his wife. Within a few days they were married again, and Miss Nuttall brought her action. There was, of course, no defence; but Russell spoke in mitigation of damages. His speech is not well reported, but those who heard it tell me it was one of the best he ever made, and that all present were impressed by the fact that he spoke not merely as an advocate, but as a Catholic, profoundly moved by the justice and morality of the course taken under most painful circumstances by the defendant. I take an extract from the speech:

Never, perhaps, within the knowledge and experience of any one present has such a breach of promise case been heard before—a case in which the breach has been caused by the husband taking back his own wife to his arms. Truth is indeed stranger than fiction. This is not the case of a new fancy springing up in the mind of a thoughtless, volatile man, but it is the case of an old enduring passion sanctioned and consecrated by the holiest of ties—the tie of marriage—assuming its old force, assuming its old influence over the defendant. He had seen his wife again—the mother of his children—had found that the passion of his love had not died out, but only smouldered, and that the sight of her had rekindled it. What is the history of this case? The defendant found himself in London. We have not heard how the meeting between himself and his wife was brought about—whether it was in answer to the prayerful cry of entreaty upon her part, as it were from her death-bed, that he should come to see her for the last time, or whether the meeting was accidental. What did he find? He found that his wife had been in great part maligned. It is not part of your business to consider the question of the misconduct of the lady. The

defendant found her as he believed maligned ; he found her at his feet, penitent, remorseful ; he found that for a considerable time she had been doing all she could by a proper and prudent and creditable life with her family to regain a name she had lost. He found her at his feet, praying to have given back to her the priceless treasure of an honest man's love, which she had wantonly, in a wicked and mad moment, cast from her. Is it wonderful that he opened his arms to receive her back again ? Can you conceive for yourselves that scene—the memories, the pictures it conjured up—the time when he and she were young, when they trustingly plighted their loves—the time of their young and early courtship, the time of their early marriage life—one might fancy the sound of the marriage bells ringing in their ears ; the time when their happiness was blessed with children—all that coming back upon them, was it wonderful that in such a moment that, by a sublime effort of pity and commiseration, the man still having the sense of wrong, perhaps, to some extent upon him, was willing to take back his wife to his affection and his arms ? There were other voices heard upon that occasion, voices not heard by the ear, but present to the heart and to the soul of the defendant and his wife. These were the voices of little Georgie and of the little girl Mabel. Is this idle sentimental rubbish, or is it genuine truth ? These are the motives which are amongst the most powerful which constitute the spring of human action. In one's own immediate circle, one often felt pity for two or three innocent children who, without any fault of theirs, were left in their infancy without a mother's care and protection ; but is that to be compared with this case, in which the children would have grown up knowing none of a mother's care, and then when they were old enough to understand the state of the case, being left to hang their heads with shame when their mother's name was men-

tioned? There is one gratification in this case, and it is that the breaking off of the marriage does not involve any circumstances of contumely—far from it—upon Miss Nuttall. It has nothing to do with any disparagement of Miss Nuttall's character, charms, or conduct. The highest eulogiums his friend could pass on all three he agreed with; but the breach was brought about because the defendant believed that a marriage, under such circumstances, would be little short of an adultery by him, and that it became morally impossible for him to carry it out. If you think this is a case in which the defendant has acted from base and selfish motives, award damages against him whether he can pay them or not. If you believe that if ever there was a breach of promise which was justifiable this is it—justifiable, I will say, in the eyes of any right-minded man in that Court—aye, or of any lady in the Court who has got her instincts, beautiful, pure, and womanly upon her. If it is, I say, a breach justifiable in the eyes of God Himself, then you will know how to deal with the case.

Mr. Pope made a powerful appeal on the other side, and the jury found a verdict for the plaintiff, 3,000*l.* damages.

At the General Election of 1874 the Liberal wire-pullers asked Russell to stand for Durham, and he consented. But, on reflection, it was thought that, as a Catholic, he might not succeed, and the seat was given to Mr. Herschell. Russell, however, did again stand as a Liberal for Dundalk, but he was again defeated by Mr. Callan, who came forward as a Home Ruler. The figures were—

Callan	257
Russell	225

Russell's defeat was not without its consolations.

During 1874 he appeared in many election petitions, and his fees for the year amounted to the handsome sum of 10,800*l.*

It was some time previous to this that I first met him. I knew his cousins in Killough well, and brought him a letter of introduction from them. I called at his chambers, 3 Brick Court, Temple, to ask him to sign my form of admission for the Bar. I was shown into his room. There he was at an upright desk, and a more frigid-looking Irishman—indeed, I may say, a more frigid-looking man of any nationality—it had never been my fortune to behold. He gave me his hand. It was like a piece of bar iron. There was not the faintest suggestion of a pressure of any kind. Of course his extraordinary eyes fixed my attention at once. They were open wide, and I had my first experience of that searching look which I came to know so well in after years. It was a noble head, but the expression of the mouth was extremely disagreeable. No smile lighted up the face, which looked as cold as marble. I felt myself in an atmosphere of ice, and longed to be out of it. Without any preliminary remark that I now can recall—if there were any preliminary remark it must have been of the most cursory character—he said, 'What is it you want?' I told him. 'Where is it?' I produced the document. He signed it, and I beat a rapid retreat. It was a thoroughly business-like interview. He did what I wanted, but made a very unfavourable impression on me. I thought his manner unfriendly, even offensive. On leaving him I went to 3 Dr. Johnson's Buildings, Temple, the chambers of Patrick MacMahon, one of the best and kindest friends I have ever known. MacMahon

was then, and had been for many years, a Member of Parliament, at first for the county of Wexford, and afterwards for the borough of New Ross. Judicial, broad-minded, upright, a sound lawyer, a keen politician, and an honest man, few stood higher in the esteem of the members of his own profession, and none were more trusted and beloved.[1]

On entering Mac's chambers he asked, 'How did you get on with Russell?' I said, 'He is a disagreeable man.' Mac laughed and asked, 'Did he do what you wanted?' I replied 'Yes.' 'Come,' said Mac, 'you have not much to complain of, then.' I said, 'He was as cold as death. I shall never cross his path again.' Mac laughed. 'Don't make rash resolutions,' he said. 'I do not care particularly for Russell. He has a rough, brusque manner, which makes him offensive and unpopular with some people. But—and this is the point that concerns you and me—he is a good Irishman and a good Catholic (if that has any weight with you). He would not temporise in the smallest way about his country or his religion to be made Lord Chancellor. He is an independent, manly fellow. I will tell you a story about him, to soothe your feelings. When Allen, Larkin, and O'Brien were hanged there was a strong prejudice against the Irish on the Northern Circuit, and of course every one said that the men deserved their fate. I have heard that Russell used to stand up in the robing-room

[1] Lord Chief Justice Cockburn in summing up in the Tichborne Case, in which MacMahon was Dr. Kenealy's junior, referred to him thus :—'And here let me say that throughout this trial, as on other occasions, Mr. MacMahon has never been wanting in his duty. He has done his duty like a lawyer and a gentleman, and in a manner perfectly worthy of a member of the English Bar.'

and condemn their execution, saying that they were not murderers in the ordinary sense, that the crime was a political crime, and that it was bad policy and bad morals to hang three men for an offence which was committed, at the worst, by only one.[1] I have myself seen him standing with his back to the fire taking the same line in the robing-room at Westminster. This little incident shows his manly, independent character. He had to make his bread in this country; but that did not prevent him from going out of his way to take an unpopular view, and so run the risk of injuring his chances at the Bar. Remember that, and don't make rash resolutions. You are a young man. When I am dead and gone you will be thrown in Russell's way, and, bad as his manner is, he will stand by you if you want him.'

One day in 1875 John Rea—Russell's old antagonist in Belfast—came into MacMahon's chambers. 'Tell me, MacMahon,' he burst out, looking brilliant and wild as usual, his hair standing on end, and his restless eyes flashing fiery glances all over the room, 'tell me who is the first man at the English Bar—who is the man you would advise me to brief in an important Nisi Prius action.' 'Charles Russell,' said MacMahon. 'Why, damn it,' said John, 'that is what I hear everywhere. It is extraordinary. Of course I knew Russell well in Belfast. I saw nothing remarkable in him then. Alexander O'Rourke, Russell, and myself were the leading advocate solicitors in the town. I was the first, O'Rourke came next, Russell was the third. He was a smart fellow, but nothing wonderful. And now I hear

[1] John Bright took the same view.

upon all sides that he is the man of the future. I can't make it out. I think I am quite as able a man as Russell, and yet look at him and look at me. I wonder if I had come to the English Bar the same time as Russell would I have done as well? What do you think, Mac?' 'I think,' replied Mac, 'you would have done very well, if you had had Russell's common sense. You don't want brains, Rea, but you want sense,' and John laughed heartily at this honest sally. Poor Rea! one may well stop in passing to cast a kindly glance on his tomb. In Belfast to-day all classes speak of him with sympathy and appreciation. Few persons indeed have so narrowly missed a distinguished career as this brilliant, but eccentric and unfortunate Ulsterman.

In the summer of 1875 my father died, and, in the winter of the same year, poor MacMahon passed away. Within a few months I lost my two best friends in the world. It was a great blow, and a great sorrow to me. One evening about 6 P.M. I went into the 'Cock' to dine. I felt very miserable, and, I dare say, looked it. I had just commenced at my chop when in walked Charles Russell. I think there was not a man in London whom I liked less to see at that moment. I shrank from what I conceived to be his cold, hard, unsympathetic nature. We had met occasionally since my first interview, passed each other in the streets, and sometimes he would join MacMahon and myself coming from Westminster, and walk part of the way with us. But I had got no nearer to him, and, despite Mac's advice, did not want to get any nearer. Now he appeared at what I felt was an inopportune moment. Our eyes met while he was at the end of the room ordering his dinner, and he

nodded as usual. Why I should have thought that we might come into contact at all, I do not know, but I did think it. It was, in fact, difficult to get away from Russell's personality. His presence was always *felt*, pleasantly or unpleasantly. I felt it unpleasantly now. I was tackling my chop vigorously, with the intention of polishing off my dinner at once and leaving the place, when Russell came straight into my stall and sat down opposite to me. A beefsteak, and, I think, a pint of port was put before him. He looked at me in characteristic fashion for an instant, and then began his dinner. He started the conversation. He spoke about MacMahon with a sympathy and a feeling which I did not in the least expect. Indeed, I never, I think, saw so complete a metamorphosis in any man as I saw in Russell that evening. It seemed to me while we talked that the whole character of his face was changed. The hard masterful look was gone. The disagreeable combative expression of the mouth had disappeared. The eyes were soft and kind. The voice was subdued and low ; and now and then a charming smile would play over his features, lighting up what was truly a noble countenance. I soon felt quite at my ease, and talked very freely. He was interested in everything I could tell him about MacMahon. I showed him a letter which I had received from Sir Gavan Duffy. He said, 'You must publish that. It is a just tribute to MacMahon's memory, and I am sure Duffy intends you to publish it.'

He lingered for nearly an hour over his dinner, and then, rising abruptly, said, 'I must get back to work.' He gave me his hand. It was still a hand of iron, but

there was a slight pressure, and a pleasant smile as he went away. A week later I received an invitation to a party at his house. Afterwards, we met occasionally. There was no intimacy between us yet, but somehow his manner, generally reserved but never unkind, inspired me with the feeling that if I wanted him on a pinch he would not fail.

In 1876 Russell applied for the Assessorship of the Court of Passage, Liverpool,[1] but his application was refused. The office was conferred upon Mr. Baylis, Q.C., who still holds it. It has been supposed that, in applying for this post, Russell intended to settle down as a sort of County Court judge for the rest of his life. The idea is amusing enough in its way. 'Of course,' a Liverpool solicitor said to me, 'if Russell had become Assessor or Judge of the Court of Passage, it would not at all interfere with his career at the Bar. Crompton had been Assessor, but it did not prevent him from afterwards becoming a judge of the Supreme Court.'

Mr. Charles Mathews has said that, between 1872 and 1878, Russell was 'comparatively unknown in London,' though his 'name was one to conjure with on the Northern Circuit.' Reading into London the word 'public'—for Russell was well known in the profession everywhere—this statement may, roughly speaking, be taken as true; and it is worth while to note the fact that a man may be doing a very good business though he should be 'comparatively unknown in London.' For instance, we have seen that Russell's fees in 1872 amounted to 4,000*l.*, and that in 1874 they rose to

[1] The President of the Court was then called an 'Assessor'; he is now called a 'Judge.' The salary, in 1876, was 600*l.*

10,800*l.*, this remarkable rise being caused, no doubt, by his work on election petitions. In 1875 his fees fell to 8,376*l.*, but in 1876 they rose to 9,300*l.*, and at this figure they stood in 1877.

The advocates best known in London in 1877 were Sir Hardinge Giffard, Sir Henry James, Sir John Holker, Sir John Karslake, Serjeant Ballantine, and Serjeant Parry. Mr. Hawkins, who stood as high in popular opinion as any of his compeers, had just (1876) gone to the Bench. The fortunes of war favoured Russell. Ballantine, Parry, Karslake, and Holker were all in failing health. The solicitors were looking around for a new man. The tide was at the flood, and Russell was able to take it.

NOTE TO CHAPTER VIII

This is the letter from Sir Gavan Duffy referred to in the text :

Monaco : December 27.

My dear O'Brien,—I was prepared for the sad news you send me. By what I saw of him in London last summer I felt he was doomed. Poor fellow! I have known him for more than a quarter of a century, and I have never known him to do a selfish or ungenerous action. He thought, and wrote, and projected in the interest of the Irish people as other men think and project for their individual advancement. I have seldom made my way into his chambers in the Temple without finding him, unless he was engrossed in professional business, pondering some subject in the interest of the fishermen of the Shannon, or the tenant farmers of Munster, or some other suffering industry ; and any one who could promote the ends he had in view, or thought he could, was welcome to use all the results of his many-sided labours. In a long life, indeed, I have known few men who so habitually avoided self-display or self-assertion.

When he was aiding the Tenant League by invaluable advice and suggestions, he did not seek a seat in Parliament with his fellow-labourers. He was urged and besought to become a candidate by men who knew his integrity and capacity, and he retired from the House of Commons the moment he thought he could be of no more use. His Parliamentary career was not distinguished by oratory—he was ordinarily an unimpressive speaker—but by work. If the interests of the fishermen in the tidal rivers of Ireland are at length recognised, it was largely his work, and only those who know by what long and patient labour public measures are ripened for success will be able to estimate how much of the Irish Tenant Right Act, passed by Mr. Gladstone, is traceable to the previous labours of Lucas, Moore, and MacMahon. The abolition of the property qualification for Parliament may be referred, I believe, to a courageous opinion of his put into action in the election of 1852. His own election at that time only cost him the postage of a letter; the county of Wexford sent him to Parliament free of all expense; and seldom, indeed, has an Irish constituency made a more judicious investment. I hope there is some authentic list of his contributions to the *Dublin Review*; a selection from them would be his best eulogy, for they are plans and estimates of work to be done for Ireland. You know how true, and steadfast, and affectionate a friend he was, but I cannot trust myself on that subject. One of a dozen men who drew me back to Europe is gone.

Ever yours,
C. Gavan Duffy.

CHAPTER IX

IN THE FOREFRONT: POLITICS

In November 1878 Russell found himself pitted against one of the most skilful and popular advocates in Westminster Hall—Serjeant Ballantine. It was an action for libel, brought by Mr. Wybrow Robertson, manager of the Aquarium Company, against Mr. Labouchere, the brilliant editor of *Truth*. 'The affairs of this Company' (the Aquarium), wrote Mr. Labouchere, 'are under the control of Mr. Wybrow Robertson as manager, already dismissed for dishonesty.' This was the libel. Ballantine led for the plaintiff; Russell for the defendant. The details of the case are now devoid of interest. Suffice it to say that Russell cross-examined Mr. Robertson in his most trenchant style, and made a singularly lucid and forcible speech. On the third day of the trial Ballantine broke down physically—fainting in Court—and on the seventh the jury found a verdict for the defendant. 'This was Russell's first London triumph,' says a member of the Northern Circuit; 'and he was as proud of it as a schoolboy, and we were as proud of him as schoolboys. He was our champion, and he had beaten one of the great London leaders. That was the view we took of the case. We had been proud of Russell before, we were prouder of him now than ever.'

A few months later Russell was pitted against another great London leader, Sir Hardinge Giffard (now Lord Halsbury). Mr. Labouchere was again his client. Mr. Labouchere had attacked a fashionable adventurer —a native of Mitylene—who moved in the 'best London society' under the name of 'Lambri Pasha,' denouncing him as an impostor and a card-sharper. Lambri took criminal proceedings against the publisher and printer of *Truth*, and the case came for trial in the Queen's Bench in April, 1879. Sir Hardinge Giffard led for the prosecution, Russell for the defence. The jury found a verdict for the plaintiff merely on the question of printing and publishing. But in the course of the trial Mr. Labouchere admitted that he was the writer of the article. Having got this admission, and being emboldened by his partial victory, Lambri resolved to take criminal proceedings against Mr. Labouchere direct. The second trial came on in May, 1880. Russell pleaded justification, and fought Lambri with the gloves off. The cross-examination was a masterpiece, and, at the end of it, Lambri was crushed. There was one dramatic scene. Speaking in French, Lambri claimed to be examined through an interpreter, saying he did not understand English. His examination-in-chief was accordingly so conducted. On the third day of the trial Russell rose to cross-examine. Brushing the interpreter aside, he began, addressing Lambri direct in English :

'What is your name?'

Lambri gave no answer.

Russell: 'What is your name?'

Lambri: '*Nom?*'

Lord Chief Justice: 'Yes, your name.'

Lambri: 'Demetri Lambri.'

Russell (in English): 'Has that always been your name?'

Lambri (in French): 'Yes.'

Russell: 'Have you not during the trial been speaking to your counsel in English?'

Lambri (in French): 'No.'

The services of the interpreter were then once more resorted to, when Russell asked: 'Was your name always Lambri?'

Lambri: 'Lambri or Lambridini.'

Russell (once more addressing Lambri direct and in English): 'Will you write the names down?' whereupon Lambri at once took pen and paper, and, amid roars of laughter, proceeded to write the names down.

The Lord Chief Justice: 'When Greek meets Greek.'

Russell then proved that the name of Lambri's father was Kallias, and that Lambri had been christened Lambon, not Lambri as alleged. After carrying on the cross-examination for a time through the interpreter, Russell once more turned sharply to Lambri and asked in English, 'Is your father alive?'

Lambri (in good English): 'Yes.'

The Lord Chief Justice: 'We can dispense with the interpreter, I think.'

A Juror: 'It would be a great saving of time.'

Russell (once more in English): 'Was your father a peasant?'

Lambri gave no answer, and the services of the interpreter were once more brought into requisition. But Russell had produced the effect he desired. He had satisfied the judge and the jury that Lambri

understood English quite well enough to undergo his examination in that language. The rest of the cross-examination was carried on through the interpreter, but the prejudice created against the prosecutor at the outset remained to the end; and in the end Russell demonstrated to the satisfaction of the judge and jury, and indeed of every one in Court, that Lambri was an ill-bred, ill-educated impostor, who had lived on the Continent by card-sharping, and had come to England to ply the same trade, when Mr. Labouchere, by the help of the French police, brought him to book.

On the fifth day of the trial, the Lord Chief Justice delivered a vigorous charge against the prosecutor, and the jury found that the libel was justified, and acquitted the defendant. This was Russell's greatest triumph at the Bar up to date. 'Why did you brief Russell in these cases?' I asked Sir George Lewis, Mr. Labouchere's solicitor. 'Because he was the best man,' was the ready answer. 'But how did you know that?' I asked; 'he was unknown in London at the time.' 'Yes,' replied Sir George Lewis, 'he was unknown in London. But he had a great reputation on the Northern Circuit, and I had heard that; in fact, he was well known in legal circles, though not to the London public. He did the cases splendidly. Nothing could be better. His cross-examination was perfect. He had no equal as a cross-examiner. He had no equal as an advocate; there never was a greater man at the English Bar than Russell.'

A month before the trial of Lambri *v.* Labouchere Russell had entered Parliament. Early in the year he had been invited to stand for the County Monaghan.

He accepted the invitation on condition that they thought him 'the best man to fight the battle.' The prominent Liberals in the constituency, however, ultimately came to the conclusion that he was not the 'best man,' and for this reason. The two sitting members were Tories. They had to be put out at all costs. That was the vital point. To put them out it was necessary that the Catholics and Presbyterians should combine. The Catholics were willing to support a Presbyterian Liberal candidate ; but the Presbyterians were not willing to support a Catholic on any terms. Accordingly, Russell, being a Catholic, was passed over, and two Presbyterians were selected.[1] Russell spoke to me bitterly of this Monaghan business. 'The Catholics of the county,' he said, 'outnumber Episcopalians and Presbyterians combined, and yet they were not manful enough to make a stand against the Presbyterians. The meeting at which the candidates were selected was held in a Catholic chapel. Almost all present were Catholics, and the meeting decided unanimously to reject the Catholic candidate and to adopt the two Presbyterians. The Catholics were, in my judgment, too timid ; but what they did they did on public grounds, and were not swayed by religious prejudices. But the case illustrates the narrowness and bigotry of the Presbyterians, who are always talking of their Liberal principles.' [2]

[1] The Presbyterians—Mr. Givan and Mr. Findlater—got in.

[2] Telegram from James Riordan, Monaghan, to T. A. Dickson, M.P. (for Dungannon), House of Commons, Feb. 1880 : 'Have just seen the [Catholic] Bishop. He is strongly of opinion that starting a Catholic candidate would lose both seats. I am sorry to have to say that I concur with him. See to this at once.' This telegram was communicated to Russell.

Having been passed over by the Liberal wire-pullers of Monaghan, he fell back on Dundalk. Mr. Callan once more opposed him. It was a fierce fight; on the last day of the election Mr. Callan 'shouldered' Russell in one of the passages of the court-house, and Russell knocked him down. He was knocked down at the polls, too—thus:

Russell	263
Callan	214

Dr. Russell, the President of Maynooth, died in March 1880. Russell sent some newspapers announcing the fact to Lord Coleridge, who wrote:

I am half vexed that your two papers should have come before I had written to you, as I meant to take the freedom to do on the death of your uncle. But I thank you very much for them, and for your kindness in remembering that I should be interested in them. I have read them with the greatest interest. I never saw your uncle; but I have heard so much of him from my brother and from Cardinal Newman that I almost seem to know him. I have always believed that he was a man respected and beloved, I was going to say equally, but at any rate alike, by Catholics and Protestants; and I know enough of his writings to be aware of the power and cultivation of his mind. His ability and goodness survive him, but, judging from myself, I can well believe that his loss must be a very great and lasting sorrow to those who had a right to love him. You are younger than I am, and, I hope, have had less sorrow; but we are both of us either at, or near to, a time of life when there is but the choice of going first or being left behind. Thank you, my dear Russell, for thinking of me. I can assure you I thought of you when I read the sad intelligence of Dr. Russell's death.

I am not quite sure whether it was shortly before or shortly after the General Election I met Russell one day in Middle Temple Lane. 'Come into my chambers,' he said, 'and let us have a talk. You are a political nondescript, like myself.' I now noticed in his chambers what I had not seen the last time I was there—then, indeed, I had only seen *him*—a statuette of Grattan, a portrait of John Martin, and, I think—though I am not sure—a portrait of John Mitchel. At all events, I know that we soon began to talk of the three men. He had a great admiration for Grattan. He spoke of Martin with respect, and almost veneration. John Mitchel was a special favourite, too. He was out of sympathy with Mitchel's aims, but the vigour and downrightness of the man attracted him. 'Mitchel,' he said, 'was the best of the Young Ireland writers. He did not beat about the bush ; he went straight to the point'—a characteristic which distinguished Russell himself in a remarkable degree. He then spoke of Mitchel much as he afterwards wrote in his American Diary. 'The only time,' he wrote, 'I ever recollect seeing John Mitchel was when the railway from Dublin reached no further north than Drogheda. We were both going to Dublin, and both got on the coach together on the Ballybot side of the town, close to Turner's Glen. He was a man not easily forgotten, and his conversation and appearance made a deep impression upon the little lad, his fellow-traveller that day. I well recollect his dark, straight hair, almost whiskerless face, and sallow, colourless, bloodless complexion, which, combined with a certain sharpness of feature and nobility of brow, gave him a peculiarly intellectual appearance, with a look almost

of the ascetic. The square character of his jaw and the firmness of his mouth conveyed the notion of a resolute, not to say obstinate man, a notion which was not removed by the look of his dark grey eyes, which seemed full of dreams and melancholy. I still think him the most brilliant journalistic writer I have ever known. He had not, perhaps, the breadth of Frederick Lucas, nor the wide information of Gavan Duffy, nor the tender, pathetic imagination of Thomas Davis; but his style was more terse, vigorous, and to the point than theirs, and was wholly free from affectation of scholarship foreign to the matter in hand. Occasionally in a sentence he could condense a world of argument. One instance occurs to me. In one of a series of letters addressed to the Orangemen of the North, he is pointing out to them why they should be in the van of the national movement, as their fathers had been in 1782 and 1798, and he is meeting an objection supposed to be made by an Orangeman then, and certainly frequently made for him since, namely, that to join with the Irish Papists would be to join the children of anti-Christ, and so on. Each July 12 celebration makes us familiar with this kind of thing. John Mitchel did not proceed gravely to argue that, after all, the evidence was not quite conclusive that the Pope was really anti-Christ, and that, at all events, all Irishmen, even Irish Papists, were bound up with the weal or woe of their country. He did none of these things. In the language of the now defunct special pleader, he put in a plea of confession and avoidance. He wrote a single line: 'The Pope may be anti-Christ, but, Orangemen of the North, he serves no writs of ejectment in Ulster.'

We discussed the political situation, and gradually wandered into the by-paths of history. I was surprised to see how little he knew of Irish political history. In this respect he was an extraordinary contrast to MacMahon. MacMahon was familiar with the political history of most countries. Russell knew almost nothing of the political history of any country, including his own. Of distinguished Irishmen, none probably knew less of political history than Charles Russell and Charles Stewart Parnell. Their intuitions enabled them to dispense with the knowledge of books. They thought and acted; they did not read. The story runs that upon one occasion Parnell, anxious, at the suggestion of a friend, to make some historical allusion and to quote some historical lines, spoke of Lord Edward Fitzgerald as 'Lord Otho Fitzgerald,' and ended his speech by expressing the hope that Ireland would soon be

> Great, glorious and free,
> First flower of the earth, and first *jewel* of the sea.

'"Gem," Mr. Parnell, "gem," ' said a friend. 'I think "jewel" is a better word,' said the chief.

Russell once spoke of the great Lord Grey as a Tory, and neither Russell nor Parnell had heard of Sir George Cornewall Lewis's 'Irish Disturbances'—an invaluable handbook for Irish political students—before 1881. I do not think that Parnell read it even then, but Russell read it conscientiously. Both were men of action, and the genius of each made him independent of artificial aids; neither was 'spoiled by culture.'

There were other points of resemblance between Parnell and Russell besides their common ignorance of political history. 'Parnell,' said Russell, 'was the most

judicial minded man I ever met,' and assuredly that is the judgment which will be passed on Russell himself by all who knew him. The fairness, the patience, the submission with which both men listened while you had anything to say which bore practically on the matter in hand, was marvellous. There was no attempt to beat you in argument, no determination to put you down, no assumption of superiority, but an attentive, sympathetic, open-minded expression of face, which gave you every confidence, and encouragement to drive your points home.

Russell's receptivity in particular was extraordinary. There never lived a human being with a more open mind. And it was not the open mind of the man without convictions. It was the open mind of the man with deep-rooted convictions, who nevertheless was ready, and even eager, to hear the last word that had to be said upon the other side. So long as you kept to the point, he listened without a murmur, but if you wandered from the point by the breadth of his nail——

One day in discussing some question I told him a story which I thought a good story. It was not, I am free to say, very pertinent to the issue, though suggested by something he had said. I expected he would have laughed. But he only looked at me with an utterly blank face. 'What has that to do with the point?' he said. 'Well, it is a good story at all events,' I retorted. 'No,' he replied, 'it has not even that merit; but even if it were a good story, why tell it when it has nothing to do with the question?' 'All right,' I said, 'we'll come back to the point.' '*You*, my friend, will come back to the point, and I wish you would not waste my time by

wandering from it.' On another occasion I urged some particular view upon him. He did not see it. I argued. He shook his head. I went on. He was obdurate. 'Is there any use,' I asked, 'in pressing this matter further?' 'Certainly, my friend, go on if you have any more to say.' I went on, but without effect. 'Am I,' I said at length, 'making any impression whatever upon the Court?' 'None whatever,' was the downright reply. I soon learned that the way to make an impression on Russell was to state facts, and to quote the authorities on the instant. And it was wonderful with what generosity he accepted your statement of the facts. When he had confidence in you, he would even sometimes dispense with the authorities. 'I take your word for it,' he would say, when he felt the force of the facts, abandoning his position at once.

It has well been said that the way to Russell's heart was through his head. If you gained his intellectual sympathies, you were almost sure of his affections.

During the debates on the Coercion Bill of 1881, I said, one day, that he ought to read the evidence given before a Select Committee appointed by the House of Lords in 1839 to 'inquire into the state of Ireland in respect of crime and outrage,' and to note specially the evidence of Thomas Drummond. Having made the suggestion, I remarked: 'But I suppose you could not spare the time to go through these big volumes?' 'Certainly, my friend,' he said, 'I shall make it my business to go through them, but' (raising his figure in a minatory style, and smiling the while) 'if I find that you have made me waste my time in doing some unnecessary work, so much the worse for you.' Next day I called

and found him wading through the evidence with as much care as if he had been noting a heavily marked brief.

Russell was not at this time—1880–81—a Home Ruler. He did not, it is scarcely necessary to say, meet the question in the *non possumus* manner adopted by most of the Liberals who, afterwards, under the relentless pressure of the inexorable Parnell, became ardent converts to the cause of Irish nationality. The line which he took was in effect this:

'I doubt if an Irish Parliament is necessary. I think it is possible that we may in time get all we want from the Imperial Parliament. A great change has taken place in England. The country is no longer ruled by the privileged classes. The masses of the people are gradually getting power, and they, who have grievances themselves, will understand our case and sympathise with us. But even if an Irish Parliament were necessary, I do not think this is the time to press for it. It is not now within the range of practical politics; and we ought to concentrate ourselves upon the questions which are ripe for legislation—the Land Question and Local Government. Local Government might even be made the stepping-stone to an Irish Parliament If an Irish Parliament is to come, it must come from below. We should work up to it, through Local Government. Local bodies would train the people and accustom them to the responsibility of managing their own local affairs, and so fit them for the higher duties of Parliamentary Government.' This, I think, is a fair statement of his views frequently expressed to me before Mr. Gladstone took up Home Rule.[1]

[1] In his letter to the Monaghan Liberals, in February 1880, he wrote:

Indeed, his mind upon the question, as upon all questions, was perfectly open. But it seemed to me that he grew more and more in sympathy with the demand day by day. Our arguments gradually turned rather upon the question of tactics than the question of principle. He believed to the end that the best policy was to work up to Home Rule through Local Government. I believed that we should go straight for an Irish Parliament.

During the stormy sessions of 1880 and 1881 Russell, though sitting on the Liberal benches, stood manfully by the Irish Nationalist members. In the debate on the Compensation for Disturbance Bill he gave Parnell strenuous support. He fought against coercion with vigour and persistence; and threw himself heart and soul into the struggle for the Land Bill in 1881. No better instance, perhaps, can be given of the earnestness with which he entered the political arena than the fact that, in 1880, he visited the County Kerry and wrote to the *Daily Telegraph* a series of letters on the Irish Land Question, describing his investigations on the spot. These letters, which made a great stir, were afterwards republished in book form, under the title 'New Views on Ireland'; the book ran in a very

'It seems to me a crying scandal that any scheme of local enterprise or improvement, having for its object the development of the country's resources, should be at its outset crushed or weakened by the enormous outlay rendered necessary by the present system of Private Bill legislation, and I shall advocate the establishment of a local tribunal of inquiry to put an end to this grievance.'

In his Dundalk address, March 1880, he wrote: 'I consider it a monstrous injustice that schemes directed to the development of our country's resources should at their outset be burthened with the enormous cost rendered necessary by Parliamentary investigation in London. I shall therefore support all measures to secure that all such Home legislation shall take place in Ireland.'

short time through three editions, and proved a valuable contribution to the literature of the subject.[1]

Among the many letters of congratulations which he received on the appearance of the work I shall quote only one—from Lord Coleridge:

Heath's Court, Ottery St. Mary: December 22, 1880.

My dear Russell,—I had not a moment before I left London to thank you for the book you have sent me. I have read most of it already with unbroken interest; and I shall read it over again while I am here so as to be ready for what I expect will be the fierce debates in both Houses as soon as they meet. You have done in my judgment a piece of work most difficult to do at all (so as to be useful) in the most admirable way; and your contribution to the settlement, whenever it comes, will, I hope, not be forgotten in the settlement itself.

All the best wishes of this time and for 1881 to you and yours.

Gully was excellent in your absence. His phrase when he asked for a stay of execution 'in order to consider more at leisure some of your Lordship's observations' tickled my fancy very much. Misdirection was never more courteously described.

Ever yours truly,
Coleridge.

In 1881 Michael Davitt, the 'father of the Land League,' was arrested. He had already suffered a lengthened period of imprisonment on account of his connection with the Fenian movement; and had recently been released on 'ticket-of-leave' by the Government of Lord Beaconsfield. His sudden arrest by a Liberal

[1] The letters were originally intended for the *Times*; but the Editor stipulated that the subject should be dealt with in 'about four or five letters of a column each,' a stipulation which Russell would not accept.

Ministry, without any reason having been assigned for the act, filled not only Irish Nationalists, but the most fair-minded of English Liberals, with indignation. Russell was on Circuit at the time, but he did not hesitate to convey his views of the transaction to Sir William Harcourt, the Home Secretary. Writing from Liverpool, he said:

Re DAVITT

I write this letter to you because I see you have been questioned about the matter, and, although I have marked my letter 'private,' I have not only no objection to your showing it to Mr. Forster, or to any other of your colleagues, but I should be glad that you did so. I assure you the greatest excitement and anger have been created in Ireland by this arrest. I have only this moment returned from the Mayor's banquet to the Judges in the Town Hall here, and three men of Liberal opinions, but not of extreme views—one of them Mr. ——, late Secretary of the Liberal Association—have not hesitated to apply the word 'cowardly' to the proceeding. This is, of course, on the assumption that the Government are proceeding either without any nameable reason by virtue of the Queen's absolute authority under the statute relating to tickets-of-leave, or by reason of the part which he has taken in relation to the Land League. If the former, I must in candour say, if I be permitted to do so, with all deference, the proceeding is misjudged; and if the latter, surely in fair play and justice some warning ought to have been given to him, or if his proceedings in reference to the Land League have been in the opinion of your law officers illegal, he ought to have been prosecuted for the illegality. I have had a shower of letters from Ireland upon the subject, and from different parts of Ireland.

The tenor of all is the same. They say in effect that for no new offence, but merely for some violent language used in times of great excitement, the Government has done what has never been done before. One letter says: 'It will need little short of a miracle now to prevent the excited peasantry from murdering landlords and agents; they will feel that the only men who have had the courage to speak up for them are being right and left suppressed by the Government.' I am writing to you in great distress. I cannot vouch for the accuracy of the information sent me, but I know the majority of my correspondents sufficiently well to be able to say that their views are honest, and that the feeling in Ireland is intense. It is said that if these things are done before the Coercion Bill is passed, what will be done after it has been passed? and they will believe or fear (notwithstanding the disclaimer of Ministers) that the new powers will be used to put down entirely the Land League, which, with all its grave faults and excesses (which I admit), has been an above-board agitation. It has, in fact, been literally a safety-valve for what would otherwise have been the, for a time, pent-up and dangerous discontent of the people. I believe in my soul that if it had not been for this agitation, while a number of landlords might have been able to collect some more rent, the country would have been stained by crime much more serious and much more widespread.

1881 was one of Russell's busiest years. His income in 1878 was 11,102*l.*; in 1879 it fell to 9,920*l.*; in 1880 it rose again to 12,465*l.*; and in 1881 it reached 14,666*l.* He appeared in four famous cases during the year—Chamberlayne *v.* Barnwall; Wilberforce *v.* Philp; Steinbank *v.* Becket; and Scott *v.* Sampson. He himself told me the story of the first three of these cases.

One day I asked him, 'What do you consider the best bit of cross-examination you ever did?' He answered, 'The cross-examination of a young lady named Wilberforce in a libel action tried before Field. It was a curious case. Miss Wilberforce, the plaintiff, was clever and attractive, and quite fascinated Field and the jury. I remember Field was getting very deaf at this time, and Miss Wilberforce was accommodated with a seat on the Bench so that the judge could hear her more distinctly. She was smart enough to make the most of this position. She sat very near Field and smiled innocently on him, and indeed on the jury, from time to time—in fact, successfully played the part of a young person who required the protection of the Court. She told an extraordinary story, but it was so well put together that I think every one believed her, taken in by her appearance and by her delivery, which was plausible and effective. As well as I can now recollect this was the story she told. She said that she had been born in America—and indeed came of a very good American family. In 1870 she came to Europe with her mother, I think, and was at Paris either during or some time after the siege, and attended to the sick and wounded. Subsequently she went to the Russo-Turkish war on a like mission, and I think she was in a third war in Mexico. In fact, she represented herself as a person whose life was devoted to works of charity and mercy—quite a Christian heroine. While she was in Europe, I forget where, she met a Mr. Philp—an old gentleman between seventy and eighty.[1] He fell in love with her, and wanted to marry her. But she refused, as

[1] He was eighty-one years old in fact. She met him in 1878.

she thought it would not be fair to his family—so she said. But she consented to become his adopted daughter. He adopted her, and she came to live with him in his house in London. Old Philp's son—who was a doctor, I believe—and his wife lived in the house too. At first they all seem to have got on very well together. But Philp's son soon began to have suspicions about the genuineness of Miss Wilberforce, and finally wrote a letter to his father saying she was an impostor and an adventuress, who had designs on the old man's property and even on his life—I think he said that she had attempted to poison the old man. The upshot was that she was ultimately turned out of the house, and then she brought an action for libel against young Philp. My instructions were that she was an unscrupulous adventuress, and that her whole story, from beginning to end, was a fabrication; that, in fact, she had a very bad history. But my difficulty was to prepare Field and the jury for what was to come. She had made such a favourable impression on them, that had I developed my case too quickly, or too roughly, I should have created a strong prejudice against myself. I had, therefore, to move very slowly, watching Field and the jury to see what effect my questions were making on them; and to take care not to shock them by being rough or rude to this innocent young person. Really, as I look back upon it now, it was very interesting and amusing. She put herself quite under the protection of Field, and drew nearer to him, when I got up to cross-examine; and he looked as if he meant to protect her too. I watched Field very closely, and, when I saw him frowning at any question I asked, drew back quickly. She was equally

on the alert, and, on my word, played the game very skilfully. I began the cross-examination, I remember, one afternoon, and had made no impression when the Court rose. Next day she took her seat near Field as usual, bowing graciously to him ; and he bowed graciously back to her. It was clear that I had made no impression. I went on with the cross-examination, and, getting near the luncheon hour on the second day, I began to feel my ground more secure, and pressed her harder.

'Then the Court rose. I remember very well thinking at luncheon whether I had yet succeeded in making any impression on the judge or the jury, and I could not make up my mind upon the point. After luncheon she came on to the Bench, looking more innocent than ever, and drew her chair still closer to Field, when he turned round sharply, waving his hand towards her, and saying, "Not so close, madam ; not so close." That was enough for me, and I am afraid that afterwards I took her rather brusquely in hand. Next morning she came back. When I resumed the cross-examination, she referred to some notes. "What are those notes?" I asked. "Notes to refresh my memory," she answered. "When did you take them?" I asked. "Last night." "How came you to take them ; what suggested it?" I asked again. "Some old letters I was reading," she replied. "Can I see the letters?" "I have not got them with me." 'Where are they?" "At my lodgings." Then Field broke in and said, "Let a messenger be sent to the house for the letters at once." The messenger was sent, but no letters could be found. I went on with the cross-examination, and the upshot was that her whole story turned out to be a pure fabrication. She was not an

American. She had not been in Paris during the war. She had not been at the Russo-Turkish war, nor in Mexico. Letters which she produced had been invented by herself, and a youth whom she called her brother was her illegitimate son. Finally, Murphy, who was on the other side, threw up his brief.[1] That was one of the most interesting cases I ever had.

'I remember another interesting case tried about the same time. It was an action for libel brought by one parson against another. The name of the case was Chamberlayne against Barnwall. Chamberlayne, for whom I appeared, was a fine, dignified old gentleman of about seventy. Barnwall had accused him of immoral practices, and for this he brought his action. There were two trials. In the first Henry James appeared for Chamberlayne, and there was a verdict for the plaintiff, 50*l.* damages. Then there was an application for a new trial, and it was granted. James was unable to lead in the second trial, and suggested to the solicitors that I should take his place. The brief was then sent to me. In the first trial Chamberlayne was not put into the box. His evidence was taken by commission. He had a weak heart, and it was said he could not with safety undergo an examination in Court. I made up my mind, however, not to take the brief unless he was prepared to go into the box. I remember we had a consultation, which Chamberlayne's son attended. I said, "I won't go into this case unless Mr. Chamberlayne comes forward as

[1] Miss 'Wilberforce,' whose real name was Smith, was afterwards tried for perjury, and sentenced to nine months' imprisonment. Mr. Justice Field described her evidence as 'gross fabrications,' and her 'claim' as 'infamous.'

a witness in Court." The son replied, "It is impossible; my father has disease of the heart, and he would probably die in the box." "Well," I said, somewhat brutally I am afraid, "and how can he die better than defending his character?" The upshot was, he did go into the box, and we got a verdict for nearly 4,000*l.*[1] My comment upon this case is the importance of having witnesses examined in Court. I remember another case which illustrates this point. It was in Vice-Chancellor Bacon's Court. A question involving many thousands of pounds was at issue. An important witness—a lady—was examined before a master in a room like this—quite private. She held her ground under cross-examination and favourably impressed the master. A fresh application was made for her further examination, and I was briefed to cross-examine her. I insisted that the examination should this time take place in open Court. Bacon thought that the re-examination was quite unnecessary—the previous evidence of the woman seemed so conclusive. The application was, however, granted, and she was examined in open Court. The cross-examination took the whole of one day, and was continued up to luncheon-time the next day. After luncheon the lady was called, but it was stated by her counsel that she was unwell and could not attend. The case was adjourned until next morning. The lady was called again, but it was again stated that she was too ill

[1] This trial lasted for fifteen days. The *Times* described it as 'one of the most extraordinary and protracted trials ever heard in Westminster Hall.' Sir John Holker appeared for the defendant. There was an application for a new trial, on the ground that the damages were 'excessive.' The judge held that the damages were excessive, and said that the Court would order a new trial unless the plaintiff accepted 800*l.*, which he did.

to appear. She never did appear, and my client came in for the money in question, several thousands of pounds.

'I remember the case of Steinbank *v.* Becket.[1] Sir Edmund Becket wrote a letter to the *Times*, saying that Big Ben[2] was a disgrace to the country; and he also, I think, attacked the founders of the bell generally.[3] Steinbank, the founders, brought an action for libel against him, and I appeared for them. There was nothing really of interest in the case, but I remember very well that people looked forward to an encounter between Becket (who was a famous cross-examiner at the Parliamentary Bar) and myself. But there was no encounter. We were quite civil and polite to each other, and there were no "scenes." We got a verdict, though.'[4]

The case of Scott *v.* Sampson is well known. A celebrated actress, Miss Neilson, had died. By her will she left 1,000*l.* to a dramatic critic. Mr. Sampson, the editor of the *Referee*, referring to this fact, stated that Mr. Scott (the dramatic critic of the *Daily Telegraph*) had called on Admiral Carr Glyn (an old friend of Miss Neilson) threatening that if he (Mr. Scott) did not receive a sum of 500*l.*, he would make certain disagreeable disclosures relating to the life of Miss Neilson, whereupon the Admiral gave him the money. For this

[1] Now Lord Grimthorpe.

[2] The bell at Westminster.

[3] He said they were the worst founders in England. C. Mears (a very old firm) was the founder of the bell; and Mears & Steinbank (who brought the action) had succeeded to the business. Sir John Holker led for Sir E. Becket.

[4] For 200*l.* damages.

Mr. Scott brought his action, and Russell became his counsel, Mr. (now Judge) Willis leading on the other side. There was not a shadow of foundation for the attack thus made on Mr Scott, and the jury gave a verdict in his favour for 1,500*l.* 'Russell's cross-examination of Sampson,' says an eye-witness, 'was ferocious. I remember one scene which was painful in its dramatic intensity. It lasted only for an instant, but produced an extraordinary effect. Russell asked Sampson a question. Sampson did not answer. "Did you hear my question?" said Russell in a low voice. "I did," said Sampson. "Did you understand it?" said Russell in a still lower voice. "I did," said Sampson. "Then," said Russell, raising his voice to its highest pitch, and looking as if he would spring from his place and seize the witness by the throat, "why have you not answered it? Tell the jury why you have not answered it." It is impossible to realise the scene unless you saw Russell. The voice, the gesture, the manner, the whole appearance of the man were awful. A thrill of excitement ran through the Court. Sampson was overwhelmed, and he never pulled himself together again. In fact, we were all awed.' [1]

In 1882 Russell appeared in another *cause célèbre*,

[1] There seems to be some slight misapprehension with reference to the tactics of Russell in this case. It has apparently been supposed that he made a new departure by saying that he would reserve calling the plaintiff until there was some evidence for him to contradict. Had he taken this line, it would not, as a matter of fact, have been anything new. Sir Hardinge Giffard had taken it in Lambri *v.* Labouchere, relying on the precedent of Achilli *v.* Newman; and Russell himself had taken it in Chamberlayne *v.* Barnwall, tried in March 1881. But this, apparently, was not quite the line which Russell took in Scott *v.* Sampson. Having opened his case, he said (according to the *Times*' report) he would call Mr. Scott

Belt *v.* Lawes. It was an action for libel brought by one sculptor against another. The libel was contained partly in an article published in *Vanity Fair*, and partly in a letter which Mr. Lawes wrote to the Lord Mayor of London. The article denounced Mr. Belt as an artistic impostor who palmed off other men's work as his own. 'We are assured,' said the writer, 'that all Mr. Belt's works from the year 1876, when he began business on his own account, to 1881, were executed by Mr. Brock and Mr. Verhyden. . . . Mr. Belt himself is incapable of doing any artistic work whatever.' Mr. Lawes sent this article to the Lord Mayor of London, for whom Belt had done some work—he had executed a bust of the Lord Mayor and of the Lady Mayoress—informing his Lordship that Belt had not denied these charges, and that in fact he could not deny them because they were true. Hence the action. Sir Hardinge Giffard (now Lord Halsbury) led for the plaintiff; Russell with Mr. Webster (now Lord Alverstone, Lord Chief Justice of England) and Mr. Lewis Coward, for the defendant. The trial began on June 22 and lasted for forty-three days, ending on December 29. It was the talk of the town, the principal topic of conversation, as the *Times* said, 'at every dinner table and in every club.' The fashionable world supported Belt; the artistic, Lawes. Never did a trial, in which the issue was really of no public importance whatever, create such a feeling of intense interest, or inspire

'to be cross-examined by Mr. Willis'; whereupon Mr. Willis rejoined, 'I shall call him as my witness,' and so Mr. Scott was examined. The point in Scott *v.* Sampson was apparently that Russell offered his own witness for cross-examination. In Chamberlayne *v.* Barnwall he reserved his witness for examination-in-chief until the other side had disclosed their case.

such a spirit of bitter partisanship. Almost every witness threw himself into the case as if it were his own. The counsel on both sides fought furiously, and fought splendidly. It was a magnificent display of forensic ability and endurance. Even the very judge—Baron Huddleston—was supposed to have caught the general contagion of excitement and partiality. Belt gave his evidence in a great state of excitement. The well of the Court was full of his 'creations;' busts and statuettes were strewn about in all directions. The defendant's case was that none of these works were really executed by the plaintiff. The Byron Memorial in Hyde Park was supposed to have come from his hand. But the defendant and his friends asserted that it had been done by Verhyden. Belt was pressed by Russell on all these points, and seems literally to have danced in the box under the searching ordeal. Once there was a passage of arms between Russell and the judge.

The Judge: 'We are going at inordinate length into this——'

Russell: 'I really must discharge my duty and put these questions. I had much rather be elsewhere. But, if your Lordship thinks so, I will sit down.'

The Judge: 'Very well, we are very much in your hands, Mr. Russell,' which was, no doubt, generally true.

But I think Sir Hardinge Giffard was the hero of this trial. He was, as some one said, fighting the Royal Academy. Sir Frederic Leighton, Mr. Millais, Alma Tadema, and other distinguished artists came forward as witnesses for the defendant; but Sir Hardinge Giffard, who showed remarkable ability in the conduct of the case

throughout, cross-examining with great skill, and speaking with singular eloquence and power, snatched the victory from his formidable antagonist. On December 29 the jury found a verdict for the plaintiff, damages 5,000*l.* But the last was not yet heard of Belt *v.* Lawes.

On January 12, 1883, there was an application for a new trial on the ground that the verdict was against the weight of evidence, and that the damages were excessive. The judges—Lord Chief Justice Coleridge, Mr. Justice Denman, and Mr. Justice Manisty—did not come to a decision on the point until the following July. Then the Lord Chief Justice informed Sir Hardinge Giffard that the Court was divided; that the majority were in favour of a new trial, but did not agree about the grounds on which it should be granted. Formal judgment was not given until December 22, when it appeared that Mr. Justice Manisty was against a new trial, that Mr. Justice Denman was in favour of a new trial on the ground that the damages were excessive, and that the Lord Chief Justice was in favour of a new trial on the ground that the verdict was against the weight of evidence. The upshot of the whole business was that the damages were reduced to 800*l.*; and then the public heard no more of as barren a piece of litigation, involving an unconscionable waste of time and a scandalous waste of money, as perhaps can be found in the legal annals of any country.

In the summer of 1882 Russell was sounded on the question whether he would accept a puisne judgeship. He wrote to Lord Coleridge, from whom the proposal came:

I have carefully considered the matter which you were good enough to put before me yesterday. I need not say that I most highly appreciate the honour which was implied in your statement to me, but under all the circumstances I could not (if it were offered to me) accept a puisne judgeship at this time.

He spent part of the autumn of 1882 in Ireland, whence he wrote a letter to Mr. Gladstone on the political situation. Having complained of the injustice of excluding leaseholders from the Land Act of 1881, condemned the system of jury packing, urged the release of Mr. Gray, M.P., the proprietor of the *Freeman's Journal*, who was imprisoned for contempt of Court, and expressed the hope that the policy of coercion might 'expire without leaving exasperating memories behind it,' he dealt with Home Rule thus:

. . . In the background there is unquestionably the great ultimate desire for complete self-government—in the Canadian sense—for Ireland; but I think the opinion is gaining ground (an opinion I have always expressed) that this is not to be effected by a 'coup,' but can only be the outcome of the demand of a practically united people, gradually educated to the use of power, and accustomed to the weight of responsibility which power brings with it.

Mr. Gladstone, in reply, thanked him for his 'very interesting letter,' but would not 'enter upon any details.'

A friend has told me the following story of Russell during his stay in Ireland at this time. 'We were preparing a memorial to Lord Spencer [the Viceroy] about some political matter; I think it was about jury packing. I drafted the memorial, and we met one morning at my

house to read it and consider it. We were seated round a table when a horse dashed up to the door, and there was a knock that shook the house. Russell came in. He sat down very quietly, and begged us to go on with the reading of the memorial, and not to let him interrupt the proceedings. I went on reading the memorial. I came to one paragraph which was pretty strongly worded. ——, who was a timid man, said, "Oh! Mr. [X.], that's too strong, I think. You see my brother James is a magistrate in that part of the county, and if we sent in a strong memorial to the Lord-Lieutenant, it might injure him, so I must ask you to consider my brother James." "Never mind your brother James," broke in Russell, "go on with the memorial." From that time he took charge of the business, and the memorial was just what he wished it to be.'

In March 1883 Russell was counsel for Mr. Biggar, M.P., in a breach of promise action brought against that gentleman by Miss Hyland. There was a strong case against the defendant (who, however, be it said, gave his evidence with great frankness in the box), and the jury found accordingly. Biggar thought that Russell's conduct of the case—especially his cross-examination of the lady—had been 'thoroughly inefficient,' and wrote and told him so. 'I have,' said Joe, 'heard the late James Whiteside and Abraham Brewster cross-examine witnesses, and I must say that, compared with them, you are a very small man.' Russell wrote a long letter in reply, from which I shall take only one sentence: 'You say that, as a cross-examiner, I am a very small man compared with the late James Whiteside and Abraham Brewster. I admit it.'

Throughout the years 1881, 1882, and 1883 I saw Russell frequently. I was then at 3 Dr. Johnson's Buildings, Temple, in chambers with A. M. Sullivan and James Anstie—a great lawyer and a true man. Lord Bowen (when Lord Justice) once said, 'Anstie ought to be where I am'—a generous expression of opinion fitting Lord Bowen's noble nature and Anstie's sterling worth.

Russell used to drop in occasionally to have a chat with Sullivan and myself; and I used to call occasionally at Brick Court to see him. We almost always talked of politics, and often discussed the tactics of the Irish parliamentary party. Russell was not in sympathy with the methods of the Irish members. Like Isaac Butt, he was opposed to a policy of 'exasperation.' He believed in the justice and reason of Englishmen, and relied on constitutional agitation, vigorous and sustained, but kept well within the limits of the law. I could not help reminding him that almost all that Ireland had won from the English Parliament during the century had been obtained by lawlessness and violence. One day, while discussing these things, Sullivan said, 'Well, Mr. Russell, I have been in Parliament with Isaac Butt, who was constitutional and law-abiding, and with William Shaw, who is moderate and reasonable, and with Charles Stewart Parnell, who defies the law and the constitution; and I can only say that Parnell has done more for Ireland than Butt and Shaw combined.' Russell was always very guarded in these talks. He did not shut his eyes to the part which lawlessness and violence had played in Irish politics, but he clung to the hope that Englishmen could ultimately be persuaded, by

reasonable courses, to do what was right. His efforts in those days were directed chiefly to relieve the tension which existed between the Irish members and the English Liberals. That tension, he felt, could best be relieved by pressing forward with the policy of conciliation. Leaseholders, he thought, ought to be admitted to the benefits of the Land Act, further steps should be taken to facilitate the purchase of their farms by the peasantry, household suffrage ought to be established, and a sweeping measure of local government introduced. He was sometimes, I fancy, disgusted with the want of grip which the Liberal leaders even still showed in dealing with the Irish question. They scarcely realised, in his opinion, that the alternative to Home Rule—if there were an alternative to it—was the prompt concession of everything which the masses of the Irish people demanded, short of Home Rule. None understood better than he that English statesmen never looked ahead in dealing with the Irish problem—that they scarcely saw it even when it was at their door. One day he said to me at Brick Court: 'The position of Ireland is a hard one. If the country is quiet, then Englishmen say, "We need not do anything, the people are contented"; if there is a violent and lawless agitation, they say, "We cannot do anything until this is put down." They won't face the question on its merits in time.' I ventured to interpose that, while declaring that they would do nothing until violence and disorder were put down, they habitually surrendered to violence and disorder.

Russell has been described as a 'great Radical.' I think the description is, upon the whole, true. He had intense faith in the people everywhere, and wished to

see all institutions built on a popular basis. He had strong sympathies with the poor and oppressed, and was deeply moved by any tale of human interest. He was attached to the Imperial idea; but did not believe in the acquisition all over the world of vast territories held by force, while at the heart of the Empire discontent was fostered by misgovernment, and popular rights were meanly denied or churlishly granted. 'An Empire,' it has been said, 'means holding somebody down.' To Russell it meant the aggregation of self-governing communities united by common interests, common sympathies, and common aims. His Radicalism and his Imperialism, however, were tempered by his religion and his nationality, and he was, above all things, a Catholic and an Irishman.

It was at this period my intimacy with him began. It has been said that no one ever got quite near to him—that he never wholly unbent to any person. Outside his own family I think this is true. And yet he would at times talk to you with wonderful frankness and familiarity, with charming homeliness and simplicity. I can see him now, sitting over the fire at my chambers in Dr. Johnson's Buildings, cross-examining me about my work, discussing some political point, or indulging in a little gossip. There was not the least assumption of superiority—not the slightest attempt to impress you with his importance or greatness. He could put you absolutely at your ease—make you feel as if you were speaking to one of your own calibre. If he committed himself—a thing he rarely did—to an inaccurate statement, he was rather pleased to be contradicted directly and even forcibly, provided you quoted an authority on the instant.

'Where can I see that?' he would say. You would tell him. 'Is the book in this room?' You would say 'Yes.' He would then get up, go to the shelves, seize the book, and carry it off. That book you would see no more. I shall tell a story to show how far it was possible for him to unbend. One day I called at Brick Court. On opening the door I heard a stentorian shout, 'Stop!' I got inside the door and 'stopped.' Russell stood near the fireplace. At the other end of the room was a piece of cork. He was shying pennies at this cork. As soon as he had thrown about six pennies—all of which got very near the mark—he walked forward and picked them up, taking no more notice of me than as if I were merely a part of the furniture of the room. Having picked up the pennies, he placed them neatly on a piece of wood, balanced them carefully, flung them into the air, and watched the result with eager interest. They all came down 'heads.' 'Now my friend,' said he triumphantly, 'you couldn't do that.' 'Very well,' I said, 'let us have a game of "pitch and toss."' He smiled, hesitated for a moment, then put the pennies into his pocket and said, 'No, let us get to work;' and we plunged into politics at once. From this period, as I have said, our relations were close and pleasant. We had one common object of interest—Ireland. Our interviews related almost invariably to politics. In this sense they were practically business interviews, and Russell was delightful to work with. There were two ways by which you could always get on with him: (1) by having your subject well in hand; (2) by never pretending to know or to understand what you did not know or understand. He liked frankness, direct-

ness, accuracy; and, in argument, wished you to stand up to him. No matter under what circumstances you saw him, no matter upon what subject you talked to him, you always felt that he was a big man. His bigness, indeed, was the one idea which could never be dismissed.

During the long vacation of 1883 Russell paid his first visit to America. He has himself told us the story of this tour in a Diary written for his wife, who spent the autumn of that year on the shores of Carlingford Lough, near their well-beloved Killowen.

CHAPTER X

AMERICA

On August 14, 1883, Russell sailed in the *Celtic* for New York. He carried with him letters of introduction from Parnell to several Irishmen in the States. I shall quote one.

'House of Commons : August 13, 1883.

'My dear Sir,—Permit me to introduce to you Mr. Russell, who is visiting America. He is anxious to learn the status, political and social, and the views of our leading and representative countrymen in the States ; and, although not a member of our party, he has always done what he could, both in and out of Parliament, from his own point of view, to serve the interests of Ireland. Need I say how much pleased I shall be if you can do anything to further the objects of his visit ?

'I am, my dear Sir,

'Yours very truly,

'Chas. S. Parnell.

'The Lord Chief Justice Shea, New York.'

Among Russell's fellow-passengers on the *Celtic* were Lord Chief Justice Coleridge, Sir James Hannen, and Mr. Patrick Martin, an Irish Q.C. On August 15 they reached Queenstown, and went ashore for a few hours.

Diary.—'Our party went ashore in tender. We

went in a body to the Cathedral and heard High Mass. A large congregation in a noble building. The L. C. told me, Hannen greatly impressed, and that the latter told him that, if he could believe, he would be a Catholic. By the way, Hannen told me his grandfather was a Catholic and a Cork man. He said his father was "caught" (whatever that means) early, and brought up a Protestant He added, he would like to explore Cork and find out, if he could, the hovel in which his forefathers lived. All the same, I think he would be better pleased not to find the hovel.'

The voyage out was marked by the usual incidents; betting on the run, smoking concerts, watching the 'sad, sad waves,' and being sometimes 'overcome.'

Diary, August 18.—'The great event to-day (for me) is the fact that I won the pool on the ship's run. The lowest was 315, which carried with it all numbers lower down. At the auction I bid three guineas for it and was declared buyer. There were in the pool some 18*l.*, so that I won about 14*l.*'

On nearing New York 'the betting was fast and furious, and the events wagered upon ludicrous in the extreme; for instance, we were hourly expecting to meet our pilot, and many were the wagers as to his age, whether married or single, whether he wore a moustache, whether the years of his age were odd or even, and, as a climax of absurdity, one of the most exciting events was whether, in boarding the ship, his left or his right foot would first touch the deck. I will not stop to recount the various issues of these wagers except to say that the last-named event was undecided, as he jumped on deck.'

He remained in New York for a few days. One

evening he, the Lord Chief Justice, Sir J. Hannen, and Mr. Martin dined with Mr. Shepard, the son-in-law of the 'mighty Vanderbilt.' In the course of the dinner Mr. Sullivan, a guest, 'remarked we were a good typical representative party of Englishmen. I staggered the party by telling them that, of the six, only the Lord Chief and his son were English, for that Sir James Hannen was only an Irishman once removed, and that Martin and I were Irish down to our toe-nails.'

Russell and Mr. Martin were invited by Mr. Henry Villard, President of the Northern Pacific Railway, to assist at a great function—the 'opening of a new line from St. Paul to Portland on the Pacific;' and on August 26 they started on this mission as Mr. Villard's guests. Having stopped *en route* to take a peep at Niagara, Chicago was reached on August 28. There Russell met two fellow-countrymen—'local celebrities'—Paddy Ryan and Michael Macdonald.

Diary.—'Paddy may be dismissed with the statement that he is a fighting-man lately defeated in the 24-foot ring by a compatriot, Sullivan. He is a Tipperary man. He left Ireland at eight years of age. He now keeps a liquor store, and seems a good-natured, lumbering chap of about 6 feet high, and weighs about 17 stone. Michael Macdonald deserves more than a passing word. He, too, keeps a liquor store—a gambling-house (in spite of the authorities), and he "runs" a granite quarry. But his principal importance arises from his political position. He is supposed to direct and control what is called the rowdy element in Chicago—largely made up of our countrymen—and this gives him very great local influence. He

is a rough diamond, not over-scrupulous—with a decisive, masterful way about him which clearly marks him out as a leader of men. He shows great knowledge of European politics, or at least of those of France and Great Britain. He is keenly Irish, but was loud in his condemnation of the assassination and dynamite policy. His friends claim for him that he returned the present—the first democratic—Mayor of Chicago.'

Passing through the 'new city' of Bismarck, he says: 'Describe one of the new cities of the States, and you have practically described all. The presence of the Celtic-Irish element speedily showed itself in one who boldly announced himself as a vendor of "krubeens." "I should not be surprised if (notwithstanding your well-known national feelings) it were necessary to explain to you that this means 'pig's feet.'" One other Irish item. A grand printed, obviously official, announcement that all who helped the great show deserved to be encouraged, BUT all who did not were to be "*boycotted*"! There is obviously no Coercion Act in force here.'

At another town he meets a fellow-countryman. 'I had a few words with Pat Bradly, who works on the N. P. Railway Co. He is from co. Armagh (my own county) and has been in the United States ten years. He was well clad and content. He inquired with interest about Ireland; but when I asked him whether he would like to go back, he answered with a grin that he would not mind, but he would require to be furnished with a return ticket to the United States.'

On September 8 they reached the spot named (at least for the day) 'Spike Point,' 'at which the final spike is to be driven, and the trains pass to and fro for the first

time on an unbroken, continuous line of railway communication from Lake Superior in the East to Portland in the West.'

At 'Spike Point' there was a great demonstration and some public speaking.

Diary.—'The President Villard read a very excellent speech, sound in sense and good in tone and taste, the effect of which would have been greatly increased could it have been spoken, and not merely read.

'Then followed the man whom all the other American speakers concur in calling (and they ought to know) the "great orator" of the day. I mean my friend W. M. Evarts, barrister. I made his acquaintance in London now a good many years since, through the introduction of my distinguished and learned friend, Mr. J. P. Benjamin. Mr. Evarts is certainly a remarkable man. He is above sixty years of age, but his manner is vivacious, and his tongue as ready as it was twenty years since—so say his friends and admirers. His head and face are striking, and present a high intellectual type of what we are in the habit of calling the Yankee. His effort was clearly to be the effort of the day. To him was assigned the part of historian and apologist of the Northern Pacific line, and this was hardly a subject best fitted to illustrate his undoubtedly great powers of speech. But more: there are days in which you speak not so much to the audience facing you as to that greater audience, if one may call them so, who are addressed through the morning papers. It was (as Mr. Evarts told me) a regrettable necessity that his speech was in print before he left New York, for otherwise it could not appear (as it did) *in extenso* the morning after its delivery in some two

hundred newspapers throughout the land. This circumstance certainly detracted from its effect. The effort to remember what had been written, and the frequent reference to the printed proof, took away from the powerful oration that character of spontaneity which is one of the greatest charms of human utterance. Towards the end there were one or two passages of great dignity and power which suggested, if they did not quite realise, the grounds on which Mr. Evarts's great reputation is based. His friends said it was not one of his happiest efforts, and they added that at this period of his history he is at his best when called upon for an impromptu speech, and upon an occasion when he can give the reins to a pleasant wit and a caustic tongue. As a companion I know no more agreeable man. Kindly, humorous, cheerful, and full of anecdote, personal and historical, spiced occasionally with just enough sarcasm to sharpen the palate, I know no one with whom I would rather travel on a long railway journey in an interesting country.'

Other speeches followed, including one from Sir James Hannen.

Diary.—'Sir James Hannen is not an orator according to American ideas of oratory. There are no sonorous high-swelling sentences; no studied risings and fallings of the voice; but there is exceedingly good taste and appropriateness of language, and a dignity of manner which together produce a most favourable and agreeable impression. It is, I think, creditable to the good taste of our American friends that many of them considered Sir James Hannen's speech the best speech of the day. . . . Then followed speeches from the governors of the several States and Territories through which the line of railway

runs. At this stage I began to tire of American oratory. We had in these speeches some of the worst characteristics, and none of the best of American oratory. They were turgid, extravagant in language, and sometimes in gesture, and seemed principally directed to claiming for their respective States the right to the title of Garden of Eden. One of them, however, reached the climax—the man from Washington territory—when he told us that all the trees there were 250 feet high, and at least 50 feet in circumference, and that his territory was the true centre of the United States.'

On September 11 Portland was reached. A great entertainment was given at 'the Pavilion' to Mr. Villard and his guests, among whom was Mr. Horace (now Lord) Davey.

Diary.—'I arrived at the Pavilion late, and found that some of the English guests were expected to speak, and that Horace Davey was asked to do so. He was anxious that I should take his place, and I, while by no means anxious to do so, was unwilling to seem to decline a responsibility which my seniority as a silk gown seemed to put upon me. Eventually we both spoke. Mr. George, Senator for the State of Oregon, delivered to Mr. Villard the congratulatory address. Mr. Villard, in response, speaking apparently impromptu, spoke sensibly and well. He then called upon me. My friends said I did very well, *but* they were friends. For my own part, I felt *when I had sat down* that I had several things to say worth listening to, and I could not recollect anything I had uttered of which this could truly be said. Two more spoke later, whom I was, for different reasons, glad to hear—one Mr. Carl Schurtz, because I had never

heard him before, and the other, Mr. Evarts, because, having heard him again on this occasion, I was able to understand how he had acquired the high reputation he possessed. Mr. Schurtz was Minister of the Interior under a former Government, and was remarkable for his wise and conciliatory policy towards the Indians, in whose regard he had established schools for the education of the young. He said, among many other wise and statesmanlike things, that it was not only wiser and more generous, but cheaper, to conciliate and educate than to fight and trample upon the Indians. Evarts on Tuesday was not the Evarts who heavily delivered a heavy oration at Spike Point last Saturday. That Evarts was prosy, indulging in long and complicated sentences, difficult to parse, labouring to be impressive, and, I fear, ending only in being dull. This Evarts spoke as if he had no weight upon his mind. His sentences were terse and pointed. He was at will humorous or satirical, and once or twice by impromptu hits carried his audience entirely with him. I was delighted with his speech, and greatly pleased that I had not to leave America with my first impression of his powers unremoved. Generally, those I have heard here show very considerable speech ability. The audiences, too, seem to enjoy the oratory. It is in voice and gesture more vigorous than in England is usual, and certainly there is a boldness, not to say exaggeration of metaphor, which we should think overstrained, if not grotesque, but which here finds pleased acceptance.'

General Grant accompanied the party to Portland, and then returned to New York.

Diary.—' General Grant is the one man who is generally popular in the United States. It was a pleasant sight

to see the old veterans who had served under him, but who have since turned their swords into ploughshares, clustering round the car to have a word and a grasp of the hand from him. There was no ceremony about the matter. Any one who wanted to talk with him walked into the car, and was always well received. There was something refreshing in all this absence of those class distinctions which with us exist. Here was a man who had twice filled the highest executive post under the constitution accessible to all from high to low. I could not help involuntarily thinking of those royal journeys so carefully ordered that the vulgar gaze of the people could not even penetrate the stations along the line.'

On leaving Portland he parted with his American friends, and, after a visit to Vancouver's Island, went on to San Francisco accompanied by Mr. Martin. There he saw his sister, Mother Mary Baptist,[1] Reverend Mother of the Convent of Mercy in that city—a woman of remarkable gifts. On September 17 he arrived at San Francisco.

Diary.—'I went early to St. Mary's Hospital, situate on the top of Rincon Hill. I was being shown into a parlour when Kate appeared, looking, on the whole, very well and strong, and exactly as she looked when in Great Britain four years ago—not a day older. The Sisters of Mercy were not the first religious sisterhood in 'Frisco, but they have since their arrival in 1854 made marked progress. Outside the Convent and outside the Catholic community the noble work they have done is gratefully acknowledged.

[1] The life of this admirable woman has been written by the Revd. Matthew Russell, S.J.

'On Rincon Hill they have a large hospital, a work school, and a home for aged women. They have altogether five branches in 'Frisco and Sacramento, and have in charge several schools. They receive no aid from the State funds, and no compensation for the important teaching services which they render. Neither do any of the other Catholic schools. In this important particular Catholic schools are much better off in England.

'I also saw Mary Martin in her nun's dress. (She used to be companion to my mother.) She is a bright, cheery little nun. . . .

'. . . We dined with a Mr. Oliver, a great friend of Mother Mary Baptist, a warm-hearted and genuine Irishman and Catholic. He is one of the many millionaires of this place. We met several representative Irishmen and Catholics. Among them Mr. Tobin, senior, and Mr. or Colonel Tobin, junior, father and son, who are respectable lawyers here. Colonel Tobin commands a volunteer local regiment, and he has under him men of '48 and '66, and even a man who took part in the Tallaght episode on the borders of Dublin a few years ago. There were many shades of political opinion expressed and represented, from pure Whiggism to ultra-Parnellism, or, perhaps more properly, Healyism. All, however, agreed in two things: the first, that at bottom there is little love for England among the American people; and, secondly, that, among the majority of the Irish, of all classes and position, the feeling is one of implacable, irreconcilable hatred of England. It is a mistake, too, to suppose that this feeling is confined to the lower order, or to what may be described as the rowdy element. Far from it! it extends to men of means,

of education and of position, who are utterly opposed to the politicians of the dynamite and murder calibre. Colonel Tobin said he had no doubt that in San Francisco alone he could raise at least 12,000 men who, without thought of pay, or of consequences to themselves or their business, would fight in any war by the side of any people against England. I doubt if there be much exaggeration in this statement. . . . As to the position of Irishmen in 'Frisco, it is very good. A native American told me he considered their case remarkable, bearing in mind the fact that they come to this country the worst provided to battle successfully in their new life, in the three important points of education, skilled training, and money. . . .

'I left poor Kate very sad, but greatly pleased at having had the old land brought closer to her by my presence. God bless her and all the sisterhood, who promised to pray very steadily for me and mine. By the way, as Kate is the Reverend Mother, I was promptly dubbed "Uncle," but without the Reverend.'

Travelling in the neighbourhood of San Francisco he met another fellow-countryman under peculiar circumstances.

Diary.—'We are still in the valley. We want to get out of it. We want to get up to the heights, and particularly to a height known as Glacier Point. How is this to be done? The glacier rocks rise abruptly behind us, perpendicular as a wall, with here and there pine trees and underwood at intervals clinging to their sides; yet we are told it is up this rock we are to ride, and ride by the Macaulay trail. The name interested me, and the man, when we finally arrived at his hotel,

situate on the top, at the very highest point, and learned his history. He was born some few miles from Randalstown. His name is James Macaulay, but I must say he has got exactly the square, rather determined Macaulay face. He worked as a lad at Randalstown Mills, and recollects all about the Macaulay family, and all about Rev. D. Curoe, J. O'Neil, and Dr. McDonnell, and the rest. He afterwards went to work in Glasgow, afterwards on board a Cunard steamship, and finally came to this country to work as a miner. He undertook, entirely at his own risk, the making of this track, when he did not possess in all the world $500, and it ended by costing him $5,000, equal to 1,000*l*. He obtained from the State the right to collect toll for ten years from those using the trail, but lately the Government have bought up the residue of his lease, and the Macaulay trail is now open to all the world. To complete his personal history, he married a widow, a German, a good deal older than himself, and has two infant sons, twins.'

Russell, having ascended to Glacier Point, stopped at Macaulay's hotel. '"Something attempted, something done," had earned for us a good night's rest, and we got it. I should desire no better accommodation in every way than James Macaulay and his wife afforded us.'

Pushing his way eastward, he visited Salt Lake City, and had a 'talk with two Mormon men,' a Scotchman and an Englishman.

Diary.—'The Scotchman is John Aird of Kilmarnock, aged 70. I believe he is thoroughly sincere, but I think he has got a bee in his bonnet. He left his Scotch wife in Scotland (she would not come with him), but he contributes to her support, and he has married

what he calls his first true wife in Mormonism, and he told us his Mormon wife is now urging him to marry a *third* with a view to his greater glory in the kingdom to come.

'The Englishman was T. Ayland, of Birmingham. I think he was sincere, but I think again he had a slate off. He was a working man who had married a second wife—the two wives living, as he expressed it, together like sisters. He did admit in cross-examination that his first wife objected to his second marriage, but afterwards "she came into it" and they had since got on very well together. "What reconciled your wife to this second marriage?" I asked. "Oh! religion," he promptly answered. "She knew it would be for the greater glory of my second wife and for my own."

'I don't think the man knew that he was uttering stupid cant. I asked Chief Justice Hunter, who struck me as being a remarkably intelligent, clear-headed man, as to the nationalities of which Mormonism is made up. He said principally Scandinavian, Welsh, and English. "Are there any Irish?" I asked. "Yes, a few," he replied, and he referred me to James Dwyer, a bookseller. [I saw him.] He says he was born in this country in Rochester, but he looked and spoke very like an Irishman born in his native country. He was a regular humbug in my opinion, and I could not avoid the suspicion that in his case regard for the profits, at least as much as for the Prophets, actuated him; but I may be doing the man injustice. He is the Mormons' bookseller of the place. We went to a very nice theatre and saw performed by the Union Square Company of New York a very good piece called "Paris Flats."'

From Salt Lake City he pushed on to Pittsburg, Harrisburg, Baltimore, reaching Washington on October 7.

Diary.—'There is a considerable Irish population in Washington, and an informant whom I believe to be reliable told me that between them and the Germans the greater part of the real estate of the city is engrossed.

'Of one man, a County Armagh man, born near Beleck, not far from Newry in the direction of Newtown Hamilton, I must speak. He is typical of, in some respects at least, many of his countrymen in America.

'His name is O'Neill. He married a Tyrone girl named McInernay. They have several children. One is a lawyer and newspaper editor in (I think) Arizona. The younger ones are learning trades, or are being educated. He insisted on my walking with him to his house, where there were assembled some friends from Philadelphia to celebrate his silver wedding. At his house—in every way comfortable—he got his youngest child, aged about nine—a girl—to play some Irish airs, which she did fairly well. He talked over his own history and incidentally of politics. He fought for the North all through the war, and has now buried somewhere in his chest a bullet which the surgeons cannot get at, and which occasionally troubles him. He is now a clerk in a Government department at Washington . . .

'He is like all the Irishmen, with few exceptions, whom we met—an advanced Nationalist. Any man who by any means almost, short of murder and dynamite, would try to help Ireland and (which is often thought to be the same thing) to flout England and England's

statesmen, has his best sympathies. He is inclined to think Parnell too moderate. He is a diligent reader of the *Irish World*, published by a Mr. Patrick Ford, which I have only seen twice, but which, I find, is a real power among the Irish here.

'They believe in Mr. Ford's honesty, and they know it means ill to England, and believe it means well to Ireland. There is no journalist in America who, to so large an extent, can influence the pockets and the political action of the Irish in America.'

On October 9 he returned to New York, where he met Lord Coleridge.

Diary.—'By the way, I find the Chief Justice of England has acquired quite a reputation as a *raconteur*. He certainly has no end of stories, which he is always willing to let off pleasantly upon very slight provocation, in whatever company he chances to find himself. . . . I went to lunch at the Windsor with Lord Justice Bowen and Lord Carington. Lord Coleridge and his son and Major Baring also lunched there. We had a very cheery party. The Chief Justice was in great spirits, and has obviously enjoyed his trip to Chicago, St. Louis, and elsewhere. He has had to do a great deal of talking, or, as they frequently call it here, chin music. The appetite of the Americans for oratory seems to me insatiable. In this respect they beat the Irish hollow. I have seen them sit through hours of oratory—good, bad, and indifferent—and show no signs of impatience. Lord Coleridge dined at a so-called private dinner party in Chicago, at which he was assured no pressmen would be present, but was horrified to hear his host informed that copies of his (the host's) speech of the evening had been duly

forwarded to the local papers. In the result the speeches lasted until the small hours of the morning, and the Chief Justice had the satisfaction of seeing the host's speech, full of wit and epigram, carefully and clearly reported.'

On October 11 Russell attended a reception given to Lord Coleridge by the Bar Association of New York at the Museum of Music. Chief Justice Ruger acted as host, and delivered a speech of 'honest welcome to their distinguished guest.'

Diary.—'My good friend Mr. Evarts followed. He seems to me to be indispensable in these matters, and commonly fills the roll of "great orator of the day." Of Mr. Evarts's speech it is enough to say that he probably could not make a bad speech if he tried, and so, on the present occasion, there were clever touches of humour and deft involutions of phraseology which tickled the ear if they did not yield much food to the mental palate. . . .

'Then followed Lord Coleridge, who was warmly received. His commanding figure and perfectly modulated voice soon arrested and kept the attention of his audience. I am not going to say that this was in any sense a great speech, or that it contained a compendium of political or any other wisdom. In point of manner of delivery, and as to tone and language, it was Lord Coleridge at his best, and that is saying a great deal; but it was, after all, a speech of an occasion (as the French say) into which it would have been extremely difficult, even if it had been wise, to say anything at once profound and acceptable about American institutions and conditions of things. His speech, for the time and

place and occasion, was admirable. It was not unqualified praise, and it was not carping censure. He praised with discrimination, and he censured in a way to impart to his praise a flavour of judicial impartiality.

'So far as one can judge, the speech has been uncommonly well received throughout the country. The statement which, perhaps, for readers at home has the most interest is that in which he said that, though he admired Mr. Gladstone much, and was a steady supporter of the Government, yet that John Bright was the man with whose political sentiments he (Lord Coleridge) most frequently found himself in accord. If this were designed as a rhetorical artifice to catch his audience, it was very clever and successful. Richard Cobden was a great English name, almost the only great English name with the American people, but among living men John Bright's is the only one to conjure with on the American continent. . . . I thought, as I walked home after this brilliant gathering, "I suppose Lord Coleridge does not forget that among John Bright's most famous public utterances was one in which he maintained that an hereditary legislative chamber could not be permanently maintained in a free state?"'

He paid a visit to the widow of the Irish rebel, John Mitchel.

Diary.—'I was anxious to see the widow of poor John Mitchel. She is the manager for a lithographic firm in Duane Street, N.Y. His second son, James Mitchel (his only surviving son), resembles his father a little in the placid expression of his face, in his voice, and in his absence of colour. He has not the strong masterful expression of his father. That he is as advanced a

politician on Irish affairs as his father a chance expression revealed. I said, "You, I think, take no part in politics?" "No; since the war I have had nothing to do in any way in politics." Later in our conversation the name of John Dillon came up. "Yes," said he, "he is thoroughly honest, but he is too moderate a politician for my taste."

'"Well, this is the first time I have heard John Dillon called a moderate politician," I answered, laughing heartily, and so ended our conversation.

'I found Mrs. Mitchel looking stronger and stouter than I had ever before seen her. Trouble had indeed silvered her head; but, considering the sorrows which have been crowded into her life, she seemed in good spirits. To look at her you would hardly imagine that, friendless, she ran the blockade to join her husband and sons in the south.

'You will recollect that, in the War of Secession here, John Mitchel took part with the South—not, I am persuaded, because of his love of the institution of slavery, but because he believed in the right of the Southern States to govern themselves. I speak here of what I may call the natural right of the South. There is probably little doubt that, as to the matter of legal right, the weight of legal authority was with the South. As, in whatever he attempted, John Mitchel was never half-hearted in his support, so he risked everything—person, position, means, and, more precious than all these, his three sons for the cause he espoused. It is a very sad story. The eldest displayed considerable military genius, and was in command at Fort Sumter when a chance cannon-ball ended a life full of great promise. The

third died on the field of battle, and the second son, James, of whom I have been speaking, more than once wounded in actual conflict, alone survives, carrying with him, as he will to the end, the maiming and disfiguring marks of war.

'With Mrs. Mitchel, in all her troubles, this consoling thought may abide that, however men may differ as to John Mitchel's conduct, measured by the cold standard of prudence, all men recognise in him the rare stuff of sterling unselfish devotion to the cause he advocated.'

After remaining a few days longer in New York, Russell sailed for England.

CHAPTER XI

HOME RULE: ATTORNEY-GENERAL

Soon after his return from America, Russell appeared at the Old Bailey to defend Patrick O'Donnell, indicted for the murder of James Carey. Carey was a member of a secret society called 'The Invincibles,' and had taken an active part in the plot for the assassination of Lord Frederick Cavendish and Mr. Burke, who were murdered in the Phœnix Park, Dublin, in May 1882. Afterwards Carey turned informer, and, mainly through his evidence, the actual perpetrators of the crime were captured and hanged. Then Carey left Ireland, taking ship for the Cape. From the Cape he sailed to Natal, and was shot on the voyage by O'Donnell. O'Donnell was immediately arrested, sent to England, and tried in December 1883. Russell conducted the defence with great skill. 'Rarely,' says a leading legal journal, 'has it been the lot of an advocate to find himself confronted by such difficulties as Mr. Charles Russell had to encounter in defending O'Donnell for the murder of Carey, and it may be interesting to our readers to have it pointed out in some detail how these difficulties were dealt with. The case for the Crown was: On July 6 last, James Carey, under the alias of Power, sailed with his wife and family in the *Kinfauns Castle* for the

Cape. O'Donnell and a woman who was known on board as "Mrs. O'Donnell" were among the passengers. Up to the time of the ship's arrival at Cape Town, on July 27, Carey's incognito was preserved; but it then became known that Mr. Power was none other than the notorious Irish informer. O'Donnell, among others, became aware of this fact at Cape Town. On July 20 Carey and O'Donnell sailed in another ship—the *Melrose Castle*—for Natal. On Sunday, July 29, both men —between whom more or less friendly relations existed during the voyage outwards, and up to the date—were in the second saloon cabin, "Mrs. O'Donnell" being also present. O'Donnell and Mrs. O'Donnell were sitting upon a settee, the latter having her arm round the former's neck, while Carey stood a few feet distant. O'Donnell and Carey were quietly engaged in conversation when the former suddenly, and without the least provocation, drew a revolver from his pocket and shot the former in the neck. Carey endeavoured to fly from the cabin, but had only moved a few feet when O'Donnell fired two more shots at him, causing his death in less than a quarter of an hour. The evidence adduced by the Crown in support of this narrative was the following: James Parish, one of the crew of the *Melrose Castle*, stated that he went into the cabin before the first shot was fired, that he saw O'Donnell take the pistol out of his pocket and fire the three shots that killed Carey, and he swore that prior to the first shot there was no sign of quarrel between the men. Carey's son, a lad of about sixteen years of age, stated that he was in the cabin some minutes before the first shot was fired, and that he saw it and the other shots fired, and denied that his father

had done anything to provoke O'Donnell. The boatswain of the ship saw the second and third shots fired, and Marks, one of the passengers, observed the men talking quietly immediately beforehand. Mrs. Carey stated that after her husband's death she said to the prisoner O'Donnell, "Did you shoot my husband?" and that he answered, "Shake hands, Mrs. Carey, I was sent to do it." Finally, Robert Cubitt, another passenger, swore that, prior to leaving Cape Town, he had handed O'Donnell a portrait of Carey, on seeing which the prisoner said, "I'll shoot him." When O'Donnell was arrested this portrait was found in his possession. The witnesses were subjected to searching cross-examination, but, with the exception of young Carey, their evidence was not disturbed in any essential particular. Thus, when the case for the Crown was closed, and when Mr. Russell rose to make his speech for the defence, the difficulties which had confronted him at the beginning of the case remained almost wholly unremoved—a circumstance which added immensely to the weight of his task. It is necessary to bear this in mind in order to appreciate properly the power of his speech, and the remarkable effect it produced on the minds of the jury.

'In opening the prisoner's case, Mr. Russell, with characteristic directness, mentioned at once the point on which he meant to rely. That O'Donnell had killed Carey was beyond dispute. What his advocate intended to show was that he had killed him in self-defence, because his own life was placed in immediate danger by the violence of the deceased. But, having stated what the line of defence was, Mr. Russell, contrary to general expectation, instead of at once developing the theory

thus suggested, immediately diverged to another topic. He thought it necessary to clear the minds of the jury of any impressions which they might have formed respecting O'Donnell's connection with any secret societies, reminding them that, notwithstanding the vast resources at the command of the Crown, no attempt had been made by the Attorney-General to show that O'Donnell had been sent to murder Carey.

'Having apparently satisfied the jury that O'Donnell had not gone on a murderous mission, and so opened their minds to the reception of what he had to say in favour of the prisoner, Mr. Russell next proceeded to portray him as a hard-working, peaceable man of good character, contrasting his reputation with that of Carey, whom he described as an inhuman monster, who, having planned a dozen murders or more, turned round and, while utterly unrepentant, gave evidence which hanged his confederates. Hated by his own countrymen, the informer went forth with his hand against every man, and every man's conscience against him. Here it is obvious that Mr. Russell was treading on dangerous ground. If Carey was universally hated by his own countrymen, what more natural than that one of those countrymen should have murdered him? The question thus suggested Mr. Russell anticipated with consummate skill, pointing out that Carey went about in hourly terror of his existence, and ready, on the slightest suspicion, to shoot any Irishman who might cross his path, lest his own life might be taken. And now at last, having described Carey as a monster, and O'Donnell as a quiet and peaceable citizen, Mr. Russell set forth in detail the theory of the defence. O'Donnell had discovered at

Cape Town that Power was James Carey, and he resolved on the voyage from Cape Town to Natal to avoid him, and, in point of fact, told Carey he would do so. But Carey would not keep aloof. On the 29th, when Carey, O'Donnell, and Mrs. O'Donnell were in the cabin, O'Donnell declared to Carey that he would "have nothing to do with an informer." "What do you mean by an informer?" replied Carey. "You are James Carey, the —— Irish informer," answered O'Donnell. On this, Carey sprang to his feet and produced a weapon; but O'Donnell, with more quickness, pulled out his pistol and fired first, with the results already mentioned. The case was a plausible one, but on what evidence did it rest? Simply upon a statement of the prisoner, made not immediately upon his arrest, or before a magistrate, but to his solicitor, and now set forth for the first time by Mr. Russell. Not only was there absolutely no evidence in support of the theory, there were two witnesses who swore they were present when the first shot was fired, and they did not see Carey produce any weapon. These witnesses were young Carey and Parish. After the death of Carey, two pistols, and only two, were found—one in the pocket of O'Donnell, and one in the pocket of young Carey. The question was how young Carey came by the pistol. He had sworn that, after the firing of the first shot, he had taken it out of a bag to give his father. How was this to be met? Mr. Russell boldly asked the jury to believe that young Carey's evidence was unreliable, and to credit the statement that the pistol had dropped from Carey, senior, and been picked up by his son. In support of this view he had already called the only

witness produced for the defence, Young, a cab proprietor at Port Elizabeth, who swore that young Carey had said to him, some days after the occurrence, that the reason he did not shoot O'Donnell was because he could not find the pistol in the bag, "for my father had it." Supported by this evidence of Young—an unimpeachable witness, it must be observed—Mr. Russell seems almost to have persuaded the jury that Carey had a pistol, and that he drew it on O'Donnell before the latter fired. This was the advocate's greatest achievement in the case—an achievement which might, perhaps, have saved the prisoner but for the firing of the second and the third shots. With these shots Mr. Russell dealt very briefly, using the greatest efforts to fasten the attention of the jury on the first shot alone—which, as he said, had been fired in self-defence—and representing the other shots, which had been fired in quick succession, as part and parcel of the one transaction—that transaction being an effort on the prisoner's part to save his own life. This vulnerable point, however, did not escape the learned judge's notice, and it was probably in the three points emphasised by him—the total absence of any evidence to support the theory of the defence; the want of any theory to explain adequately the second and third shots; and the fact that the woman who accompanied O'Donnell, but who was not even alleged to be his wife, was not called—that the verdict ultimately turned. That the verdict of "guilty" was only reached after nearly three hours' deliberation is a testimony at once to the fairness with which the trial was conducted, and to the ability and power of the advocate for the defence.'

O'Donnell was found guilty of murder, and condemned to death. Russell made a strenuous effort to get the capital sentence reduced to penal servitude, on the ground that O'Donnell had fired in hot blood, believing (rightly or wrongly) that Carey meant to shoot him. With characteristic earnestness Russell not only wrote to the Home Secretary, but to the Prime Minister as well:

3 Brick Court, Temple:
Dec. 10, 1883.

Dear Mr. Gladstone,—I have long hesitated before coming to the conclusion that I ought to trouble you with this communication on the subject of Patrick O'Donnell, now under sentence of death for the slaying of James Carey. There is more than a departmental question involved in this case, viz. the question of public policy, to which I respectfully invite your earnest attention. If justice does not imperatively demand that O'Donnell's life be forfeited, I feel strongly that the interests of peace would best be served by commuting his sentence to penal servitude. I fear his execution would involve injurious consequences. It would add to your labour unnecessarily were I here to repeat the grounds on which I urge that the man's life might properly be spared. Those grounds appear sufficiently in the copy of my letter to Sir William Harcourt (which I enclose), together with copies of the documents therein referred to (which I also enclose).

I am, dear Mr. Gladstone,
Always faithfully yours,
C. Russell.

Mr. Gladstone replied:

December 13, 1883.

Dear Mr. Russell,—I can well understand the motives which may lead counsel, especially in a case of life, to use every effort which may seem in any way

allowable on behalf of a client. I am, however, in fairness, bound to say that, so far as I am able to judge, I should not, had I been in the place of the Secretary of State, have arrived at any other judgment in the case of O'Donnell than that which he has, I believe, made known to you.

Believe me, faithfully yours,
W. E. Gladstone.

The law was allowed to take its course, and O'Donnell was hanged.

In 1884 Russell changed his quarters from 3 Brick Court, Temple, to 10 New Court, Lincoln's Inn. Some time previously I had taken chambers in New Court too. Henceforth we saw more of each other than ever. I was writing a book on Ireland, and had occasion to consult Hansard frequently. He had a complete set in chambers, and placed them at my disposal. I was at his chambers pretty well every day. 'It seems to me,' he would say, 'that I bought these Hansards for you. You certainly get all the benefit of them.' I used to sit with him at luncheon constantly. Finding me working away at Hansard on coming in from Court, he would say, 'Come into the other room and have a talk.' These talks were very pleasant; but they generally turned on some question of practical politics. He was always homely and genial. One day he told me a story which amused him very much. He was talking of his American tour, and of the kindness which had been shown to him in the States. An American friend had arrived in London. 'I was anxious,' said Russell, 'to pay him every attention. I thought he would like specially to meet some of our celebrated men—Glad

stone, Bright, Salisbury, Randolph Churchill, Parnell, Chamberlain, the Speaker, the Lord Chancellor, the leaders of the Bar, some famous generals or artists, and so on. I said, "If I cannot myself introduce you to any of these men whom you might like to meet, I think I can promise to get an introduction for you." "Well," said he, "there is only one man I want to meet, and if you can get me an introduction to him I shall feel very much obliged." "Certainly," I said; "I will do my best." And I cudgelled my brains to think of some impossible personage whom he was going to name. "Well," said he, "the only man I want to meet is Mr. Henry Labouchere."'

One day I came into his room and found him at his accounts; fee books, bank books, cheque books were strewn around. 'I am glad,' I said, 'to see you at your accounts.'

Russell: 'Why?'

'Because I should like to know your income.'

Russell: 'That's a very impertinent question!'

I admitted that it was.

Russell: 'So impertinent that I think I'll answer it.'

He then told me that he had in one year made something approaching 20,000*l.*

'That's a lot,' I said, 'to work out of a man's brain!'

Russell: 'It is, but I get good help. There are some young fellows who work for me. They learn their own business and help me in mine.'

'They say you never read a brief,' I said.

Russell: 'Who says so?'

'Every one.'

Russell: 'Who is every one?

'You know who every one is; when you have no specific authority you say "Every one."'

Russell: 'Just so; but how do these people think that I get up my cases—by intuition?'

'Yes; that is just what they do think. You can see the real point in a case at a glance, and you don't bother about anything else.'

Russell: 'That's all nonsense. You don't know anything by intuition. You have to work hard and to think hard. I get some good help, as I tell you. My mode of work is this: One of these young men reads the brief and makes a note—a full note. I go through the note with him (smiling), cross-examining him if you like. Sometimes, I admit, it may not be necessary for me to read the brief; the note may be so complete, and the man's knowledge of the case so exact, that I get everything from him. But it often is—in fact it generally is—necessary to go to the brief. You have seen me reading briefs here. I admit that I am quick in getting at the kernel of a case, and that saves me some trouble; but I must read the brief with my own eyes, or somebody else's.'

I said, 'Sir John Karslake went blind because he could only read his brief with his own eyes. It is a great point to be able to read your brief with somebody else's eyes!'

Russell: 'Well, well, well, that's so! but it is not intuition.'

I said, 'It has been said that O'Connell never read his brief when he appeared for the defendant. He made his case out of the plaintiff's case.'

Russell: 'I don't think that is likely. I think

O'Connell knew his case—the vital points in his case—before he went into Court. There is often a great deal in a brief which is not vital, which is not even pertinent. I can read a brief quickly; I can take in a page at a glance, if you like; I can throw the rubbish over easily, and come right on the marrow of the case. But I can only do that by reading the brief or by the help of my friends. I learn a great deal at consultations; I am not above taking hints from everybody, and I think carefully over everything that is said to me; (holding his hand up with open palm) I shut out no view. If I have a good point, it is that I can see quickly the hinge on which the whole case turns, and I never lose sight of it. But that is not intuition, my friend, it is work.'

In truth it was both. Russell worked hard. There is no doubt about that. He spent himself over every case—big or little—in which he was engaged. But his intuitions were extraordinary. One of his 'devils' has told me this story:

'I had made a full note for him in a case. He did not read the brief himself. He spoke from the note. I sat behind him as he was addressing the jury. Suddenly I remembered that I had omitted one most important fact. I was horrified. I felt the cold perspiration running down my back. What was I to do? If I interrupted him he would be angry, and if I let him close his speech without mentioning this fact, he would be angry too. What was I to do? It was not at all an easy thing to pull him up and go into this new matter. There I sat still in doubt, while Russell rattled along. Gradually he got to the point where this fact ought to come in, while I sat undecided, when suddenly, to my astonishment, out came

in its proper place in the narrative the fact in question. I was amazed and relieved. How did he get it? He had never opened the brief—that I knew. As we walked away from Court I told him how sorry I was to have left out that fact, and what a funk I was in all the time he was speaking. He was not a bit angry. He took it very well. "But how," I asked, "did you know it? You never read the brief; you had nothing but the note." "Quite true, my boy," said he, "but I felt sure it must be so from the lie of the other facts." The courage of the man, his faith in himself amazed me. He felt assured from the general bearings of the case, without any special knowledge, that this particular thing had happened, and he said so with complete confidence. I remember another instance of his assurance. There was a consultation in his chambers. At this time he was hard pressed—in fact, overwhelmed with work. He had not read his brief, and had no note. He knew nothing about the business. The solicitor and the parties were in his room waiting for him. I ran across to Court just to tell him something of the case on the way back. "Well, my boy," said he, "what is it all about?" I told him shortly: "An action against an insurance company on a life policy. We are for the company. The defence is that it was a bad life, and that some important facts were not disclosed." "What's the point?" "Well, the point against us is that our doctor passed the life." By this time we had reached his door. He did not hesitate for a moment; he walked straight in without further question, sat in his chair, took off his wig, and, looking the master of the whole situation, said: "Well, gentlemen, isn't this an awkward business about our doctor?

Let me see his opinion." The solicitor rummaged among the papers; the clients were anxious and nervous. Russell read the doctor's opinion, cross-examined every one, and soon got a grip of the case. But no one could have guessed that he had practically only heard of it about ten minutes before he entered the room.'

'Did you ever,' I asked this devil, 'witness any scenes at consultation?'

'Oh yes,' he answered, laughing, 'I remember one consultation which was attended by an imposing-looking solicitor from Manchester. He wore an Astrachan coat. Russell could not bear Astrachan coats. We were all assembled at chambers, waiting for the great man to come in from Court. Soon he appeared, went straight to his chair, as usual, and took off his wig. Then he shot a glance at the Manchester solicitor. "What do you mean," he said, "by coming in here with that coat? Take it off." We all felt very uncomfortable, the man took off the coat, and Russell plunged into the case as if nothing unusual had occurred. In these bursts of impatience and irritability, he, of course, did himself great injustice. He did not mean to hurt or give offence. If he reflected for a moment, and thought that he had wounded you, no one could feel more sorry. I will give you an instance of what I mean. I was once his junior in a big commercial case. Some of the directors of the company for which we appeared—City magnates—were in Court. There was one critical moment, and Russell was away at the time. The directors got nervous, and said, "Send for Mr. Russell." I said there was no necessity, that we should get through all right. The directors, however, were urgent, and I sent for Russell.

By the time he came the crisis was over, and everything was going on smoothly. "Why was I sent for?" said Russell. "There's nothing to do!" The directors looked in a blue funk, while Russell shot angry glances all around, and then stalked out of Court. Later on he said to his clerk, "I wonder if I offended Mr. - —— [me] yesterday. I was rather brusque." Next day he came to my room. "Well, my boy," he said, "I am afraid I was rather rough yesterday; I am very sorry, but really there was nothing for me to do and I was wanted elsewhere. Forgive me, my boy." I was not a bit annoyed with Russell, but I was with the confounded directors who had caused the whole row, and then looked as if they knew nothing about it. He was always off-hand, generous, manly, and, despite his occasional bursts of passion, had a thoroughly kind heart.'

One day Russell said to me, speaking of MacMahon, 'I think MacMahon liked me.'

I said, 'I don't think he did.'

Russell: 'What do you mean?'

I said, 'He admired you; he was proud of you as an Irishman——'

Russell: 'No, no, no, that won't do; he liked me.'

I repeated, 'He did not; few people like you.'

Russell: 'What do you mean?'

I said, 'Well, you know that you are not a popular man.'

Russell: 'I know nothing of the kind.'

I said, 'You are the most reasonable man in the world; and how do you think that you can be popular when you have been riding rough-shod over every one all your life—judges, barristers, attorneys, all sorts of people?'

I was much struck by his answer. He was standing near the window; while I was talking he was looking into the court. He then turned round, looked at me for an instant steadfastly, and said:

'Well, my friend, I am more popular than you think.'

And he said what was absolutely true.

Subsequently I asked a distinguished member of the Northern Circuit if Russell was 'liked'; that I knew the men were proud of him; 'but did they like him?'

'Yes,' he said, 'despite his roughness they liked him. People liked to see Russell about. He contributed nothing to the amusement of the mess; but the men liked to have him there. He entered into the fun, though he did not help to make it, and we liked to see him enjoy himself. He was more popular than many a milder-mannered man.'

On another occasion he gave me a photograph of himself.

'It is not good,' I said.

'What is wrong with it?' he asked.

'The mouth is too amiable,' I replied.

He took it out of my hand, looked at it, then threw it on the table and said:

'Ah, my friend, that mouth is ugly enough for anything.'

It was about this period that Russell cross-examined, with much severity, a lady in a case to which I have already referred.[1] The cross-examination began one day. The next day the lady had disappeared. Afterwards Russell received an anonymous letter of 'a very

[1] *Ante*, p. 146.

abusive character.' He wrote to the counsel who represented the lady :

Dear [——],—An anonymous letter has been sent to my house which has greatly annoyed my people. It is of a very abusive character (which I do not mind), but it charges me with having been guilty of conduct in my cross-examination of Mrs. —— which no gentleman should pursue towards any woman.

I should be sorry to think this was true, but I am not the best judge of my own conduct. Will you, who represented the lady, tell me—and tell me frankly and candidly—what you say to this charge?

I need not add your letter will be 'private' as mine is.

Faithfully yours,
C. Russell.

The other counsel replied :

Dear Russell,—I am concerned that you have been subjected to the annoyance of an anonymous letter. Your cross-examination, of course, was not wanting in energy and pointedness, and, perhaps, from my point of view, one or two expressions *might* have been moderated, but—as you ask me—I am bound to say—regard being had to your duty as an advocate acting in the interest of his client in a very exceptional case—that it does not appear to me that your conduct can in any way be justly reflected on as 'unworthy of a gentleman,' a character which we all know you eminently possess.

Of course this letter, like yours, is private.

Faithfully yours,
———.

Early in 1885 the shadow of the coming General Election was upon the land. Dundalk had been disfranchised by the Reform Act of 1884. Russell now

sought a constituency in England. He was invited by the Exchange Division of Liverpool and by South Hackney. He decided to stand for Hackney. He was not yet a Home Ruler. He still clung to his original opinion that Home Rule, if necessary, should come through local government. But he doubted if it were necessary; and he held that four conditions were essential to bring it within the range of practical politics:

(1) That a workable scheme should be produced;

(2) That it should be presented by a practically united people

(3) That the English mind should be educated;

(4) That the demand should be made in a conciliatory spirit.

Nevertheless, he was nearer to Home Rule in the end of 1885 than he had been in 1880, or in 1882, or even in the beginning of 1885, though none of those conditions had been complied with.

In his Hackney address in November 1885 he said: 'The question of Ireland still remains unsolved. Its wise solution cannot fail to strengthen the position of the Empire, and leave to the Legislature here greater opportunity of dealing adequately with an increasing arrear of necessary legislation. I am absolutely opposed to separation; but, reserving Imperial control in all Imperial questions, I think Irishmen on Irish soil should have the power of dealing in the way that seems to them best with all questions that concern them.'

He was opposed by Mr. (now Mr. Justice) Darling, and there was a vigorous contest. An attempt which was made to create a prejudice against him on account of his religion drew the following letter from Samuel

Morley, addressed to Mr. Grimwade, the energetic secretary of the Hackney Radical Association:

October 21, 1885.

'Dear Sir,—I have read the letter to which you refer in the *Hackney Mercury*, and do not lose a moment in testifying to my earnest hope that Mr. Charles Russell will succeed in his contest for the South Division of the Hackney Borough. There are few men in the House of Commons who would be more distinctly missed, if he should not be returned again, than Mr. Russell, and whether I regard his undoubted intelligence or the singular fidelity to high principle which he has always manifested, I recommend him with all my heart to the constituency whose member he is seeking to be.

'Yours truly,

'S. Morley.

Russell, of course, worked strenuously, and made every one else work. Here is a characteristic letter written to Mr. Grimwade:

Tadworth Court: Tuesday.

Dear Mr. Grimwade,—After Friday's meeting in Hackney Wick, I think it will be more convenient for me to sleep in the neighbourhood that night, as I may thus utilise Saturday morning in making calls before the Hackney Down meeting. Will you therefore engage for me a clean bedroom *anywhere* for Friday night? Any public-house or inn will do, and I am not particular as to the exact spot. Pray excuse bother.

Faithfully yours,

C. Russell.

P.S.—I should like a sitting-room also, and the only thing I *insist* on is a clean bed and *well-aired* sheets.

C. R.

The election was without incident, but the following story may be worth telling. On the day of the declaration of the poll, while Russell was pushing his way through the crowd to the Town Hall, some one called out 'Good old Charlie!' Russell turned round sharply to reprimand the offender for this impertinent familiarity, when 'Jimmy Hart,' a local celebrity and a stalwart Liberal, hit him a slap on the back, saying, 'It's all right, guv'nor, you've got in, and they calls you Chawles.' He *had* got in by a decisive majority.

Russell was much knocked up after the election, and early in December he went abroad to have a few weeks' rest. During his absence events moved rapidly.

The General Election had made Parnell master of the situation. Three hundred and thirty-five Liberals and two hundred and forty-nine Tories were returned. The Irish came back eighty-six strong. Parnell held the balance between the English parties. Mr. Gladstone could not form a stable government without Irish support, and he determined to make terms with the Irish leader. On December 16 an 'inspired' paragraph appeared in the *Leeds Mercury* stating, in effect, that Mr. Gladstone contemplated establishing a parliament in Ireland for 'dealing with purely Irish affairs.' This paragraph much exercised the public mind, and even startled the Liberal party itself. Despite all attempts to explain it away, people felt that the Liberal leader meant to take up Home Rule.

Early in January 1886 Russell was back in London. One evening I called to see him at 10 New Court. He looked anxious, depressed, and, I thought, despite his visit to the South of Europe, unwell. Of course we

talked of the crisis. No one talked of anything else. I had just published, with the knowledge and, I believe, the goodwill of Mr. Gladstone, an article entitled 'A Federal Union with Ireland.' In it I roughly sketched the scheme of Home Rule which I thought Parnell would accept.[1] We discussed this article. I told Russell the circumstances under which it was written. I said, 'There can be no doubt but Gladstone means to establish a Parliament in Ireland. He will get Irish support on no other terms. The Irish can put him into office, and turn him out in a week. If the Tories could hold office with Irish support they would probably establish an Irish Parliament too. Home Rule or another General Election is the issue. The point now is, whom will Gladstone get to stand by him?'

Russell: 'Well, my friend, you know my views. As you have always said, I shall go with my own people. But still I think that Home Rule cannot be carried by a *coup de main*, and that the wiser course, in the interests of Home Rule, would be to take Local Government first.'

Events still continued to move rapidly. Gladstone and Parnell drew nearer to each other every day. At length they made a combined attack upon the Government. Before the end of January 1886 the Government had fallen, and early in February Mr. Gladstone was Prime Minister, and Charles Russell Attorney-General for England. In 1883 he had said to me, 'I have no desire to be a judge. My ambition is to be the first Catholic Attorney-General since the Reformation.' That ambition was now gratified. Going down to the

[1] See *Life of Parnell.*

House of Commons one evening, soon after the fall of the Salisbury Government, he heard some one walking quickly behind him. On turning round, he found Mr. Gladstone at his side. 'Mr. Russell,' said the Prime Minister, 'I have advised her Majesty to appoint you to the office of Attorney-General.' That was, I think, the first authoritative intimation Russell had received of the fact.[1] He received many letters of congratulation from men of all parties; but I shall quote only one—from his old opponent at Hackney:

February 7, 1886.

Dear Attorney-General,—I have waited to offer you my sincere congratulations upon your appointment until it was quite certain that I should not have to oppose your re-election in Hackney. Now that Hackney is no more to me than Hecuba, I can tell you that your promotion to high office gives a personal pleasure beyond that complete approbation which the Bar as a whole will feel at your becoming their leader. You are to be opposed, I hear, and I suppose I ought to wish you may be beaten; but I shall allow myself the gratification of doing nothing by word or deed to hinder your election. My wife asks me to remember her to you, and, as I am not to be your opponent, hopes you may be successful.

Believe me, yours sincerely,

Charles Darling.

Among Russell's replies I shall quote his letter to Mr. (now Sir) George Lewis, the solicitor who briefed him in his most famous cases.

February 5, 1886.

Dear Mr. Lewis,—Many many thanks for your kind words of congratulation; none have been more

[1] Mr. Gladstone had written to him on the same day.

grateful to me. To you, indeed, more than to any other man in either branch of the profession do I owe the position at the Bar which has led to the present appointment. I hope in it I may not disappoint my friends.

Faithfully yours,
C. Russell.

Russell's re-election at Hackney was opposed by Mr. Scoble, but he held his ground after a keen contest.

Dealing with Ireland, he said in his address: 'While regarding separation between Ireland and the rest of the kingdom as a great evil to both, I stated (in my former address) that in my opinion, with proper safeguards and under conditions which would secure the supremacy of the Crown and of the Imperial Parliament, Ireland might be entrusted with the power of dealing on Irish soil with Irish questions. The problem is doubtless surrounded by grave difficulties, but I firmly believe that, if approached in a spirit as far as possible free from prejudice and the passion of party, the statesmanship of the kingdom is capable of arriving at a safe and wise solution—one which, so far from impairing, will add to the strength and unity of the Empire.'

I have in the 'Life of Parnell' told the story of the struggle for Home Rule. I will only say here that Russell threw himself into that struggle with characteristic energy and earnestness. His best speech in Parliament was made on the first reading of the Government of Ireland Bill. I take one extract from it:

The question is no longer whether the thing is to be done, but whether it is to be done now, and in what form. And where the justice and the practicability of such a scheme as this is recognised by a responsible

Cabinet, when the dissentient Liberals dissent only as to the mode, the degree, and the time, when the Conservatives have no policy, no alternative policy to this, but a policy of repression, is it not right that this measure shall be passed, and passed in a generous spirit? If passed now in a generous spirit, I think there is strong hope, I venture to say strong probability, that it will be received in Ireland with a thorough spirit of friendliness, and that in Ireland matters will moderate and arrange themselves. Postpone it until there is military repression, or repression of some other sort, and the thing will still have to be done, but it will have to be done under conditions infinitely worse, accompanied by greater embitterment between races and classes in Ireland, and with diminishing hopes of complete international freedom. Sir, I have spoken with earnestness because I feel deeply on the subject, and I ask hon. members, even if they do not approve in all details the scheme of the Prime Minister, whether they do not think that, instead of belittling this question, the Prime Minister has placed it on a higher plane, and in a purer atmosphere, and has propounded a scheme at least worthy of the great subject he dealt with? I believe that in this scheme will be found the means of ending a state of things which is intolerable—intolerable to Ireland, intolerable to England, injurious to the name and fame and greatness of this Empire. It is, Sir, because I believe that this happy result may be attained by this scheme, if rightly considered and dealt with, that, with all the earnestness of which I am capable, I ask for it from this House and from the country, a fair, an honest, an anxious, a dispassionate, and a generous consideration.

There can be no doubt that Russell's political labours, added to increasing legal work, told heavily on his constitution during 1886 and the following years. Lord Coleridge wrote to him:

'Don't overdo yourself—a temptation to which all very strong men (in mind and body) are terribly liable.'

But Russell little heeded the advice. It was not his nature to take things easily. He could do nothing by halves; and the hours which were not now given to his profession were devoted, with unremitting zeal, to the service of his country. Always in his place in Parliament, ever ready to address public meetings in any part of England, anxious to help every man who was anxious to help the cause, he neither sought nor cared for rest in the strenuous days of the Home Rule controversy. Overworked and worried, he was occasionally impatient and irritable in those days of storm and stress; and it was more than ever necessary in dealing with him to come quickly to the point and to stick to it. I remember an amusing interview which took place between him and a friend whom I shall call Y. in one of his impatient and irritable moments. Y. had applied for some post, and he was advised to secure Russell's influence. One day he came into my chambers and told me his story. 'I hear,' said he, 'that Russell is a terrible man. You know all about him; tell me how I am to approach him.' I replied, 'Sit down and write a short note to him, saying in a word what you want. Then give it to his clerk to take in.' Y. sat down, but after struggling with the subject for about ten minutes, said, 'No, I won't write. I can't put the thing so well on paper. I'll see him.' 'All right,' I rejoined, 'do what you like, only come back and tell me when it is all over.' I knew Russell—who liked a business conversation to be carried on in shorthand as it were—and I knew Y.—who was always fluent and discursive, but an excellent fellow withal—

and I anticipated a scene. Y. went to Russell's chambers, and came back to me in about three-quarters of an hour. 'Good Heavens!' he said, bursting into my room, 'I have had the devil of a quarter of an hour. Such a man I never met in my life.' 'Well, sit down,' I said, 'and tell me all about it.' But Y. did not sit down. He was far too excited to sit down. He stood with his back to the mantelpiece and in the most perfect good humour, I must confess, gave me a graphic account of what had happened. Now that he had got out of the lion's den he seemed to enjoy the scene, as I certainly enjoyed his description of it. This is what happened: The clerk took in Y.'s name, and brought back the message that Sir Charles would be glad if Y. would put in writing what it was he wanted. Y. wrote a lengthy letter stating his case. The clerk took it in and returned to say, 'Sir Charles will see you, sir.' Y. had met Russell once before with Lord —— and he thought he would open the conversation by mentioning this fact, so as to produce a favourable impression at the outset. He pulled himself together and entered the room.

SCENE.

Y.: 'How do you do, Sir Charles? I think I had the honour of meeting you with Lord —— at ——.'

Russell: 'What do you want?'

Y.: 'Well, Sir Charles, I have endeavoured to state in the letter which I——'

Russell (taking up the letter): 'Yes, I have your letter, and you write a very slovenly hand.'

Y.: 'The fact is, Sir Charles, I wrote that letter in a hurry in your waiting-room.'

Russell: 'Not at all, not at all; you had plenty of time to write a legible note. No, you are careless. Well, go on.'

Y.: 'Well, Sir Charles, a vacancy has occurred in ——'

Russell: 'And you are very untidy in your appearance——'

Y.: 'Well, I was travelling all night. I only arrived in London this morning.'

Russell: 'Nonsense, you have had plenty of time to make yourself tidy. No, you are naturally careless about your appearance. Go on.'

Y.: 'Well, Sir Charles, this vacancy has occurred and —— asked me to see you——'

Russell: 'And you are very fat.'

Y.: 'Well, Sir Charles, I am afraid that is hereditary. My father was very fat——'

Russell: 'Not at all. I knew your father well. He wasn't fat: it is laziness.'

By this time Y. (as he assured me) was much more anxious to get out of the room than to get the appointment. However, he ultimately stated his case and took his departure. 'Now,' said he, having told me this story, 'will he do anything for me?' 'Oh, yes, he will,' I answered; 'I am going to see him to-morrow and I will bring the matter to his mind.' Next day I saw Russell in his room at the House of Commons. He was very busy. 'Now what is it you want?' he said testily, when I made my appearance. I answered, 'A letter of introduction to ——' (on political business).

Russell: 'And you just come at the height of my work.'

I sat down. He took up a sheet of note-paper. I thought he would write a short and curt letter. Indeed, had he given me his card it would have been enough. As a matter of fact, he wrote what, so far as it concerned me personally, was a very kind letter; and I was touched by it, written under the circumstances, when he was worried and overtaxed. 'There,' said he, throwing the letter across to me, 'now off you go.' 'Just one word,' I said; 'my friend Y. called to see you yesterday.'

Russell (with an impatient shake of the head): 'Well, what is it now? You see how I am pressed.'

I said, 'Give me five minutes.' He leant back wearily in his chair, and said, 'Not a minute more.' Within the five minutes I told him a 'human' fact about Y. which I knew would interest him; and he listened to me for a quarter of an hour. I told him Y.'s story—a most honourable and upright story. When I was done, he said, 'Then why did he not tell me that yesterday?' I replied, 'A man cannot tell these things about himself.'

Russell: 'Well, then, just tell me over again what it is exactly he wants.'

I told him, and then left the room. As I got to the door I saw Russell take up a sheet of note-paper, and I doubt not that what he wrote was in the interests of Y.

A strange man, Charles Russell, known only to those who were brought into close contact with him. Brusque and rough at times; yet a kinder heart never beat in human breast. I find among his papers about this period a letter in these terms:

Dear Sir,—Your great kindness to me to-day was such that it completely startled me, and I am afraid I did not thank you as I ought; but if I appeared—as I

fear I did—not sufficiently grateful, I ask you kindly to believe me when I say I was so astounded that I could hardly credit the fact of a great Q.C. giving advice gratis to a perfect stranger, and then to pay solicitors' fees out of his own pocket; such a generousness exceeded my most sanguine expectations.

On June 7 the second reading of the Home Rule Bill was defeated in the Commons, and Parliament was immediately dissolved.

Russell was once more opposed at South Hackney by Mr. Darling, who announced his intention to enter the lists in the following cheery letter:

3 Dr. Johnson's Buildings, Temple: June 11, 1886.

Dear Attorney-General,—I have just finally decided to oppose you in South Hackney. To-morrow I shall be on the field of battle, and this note is by way of the courtesy of Fontenoy, 'Tirez les premiers, messieurs.' I look on Stephenson[1] as between the armies, and am sorry for him.

Believe me,
Sincerely yours,
Charles Darling.

Mr. Darling proved a formidable opponent, but Russell held the seat.

The Liberals were, as a whole, routed at the polls, and in July Lord Salisbury was Prime Minister. The first Home Rule campaign had ended in disaster, and Charles Russell found himself once more in the cold shade of opposition.

From his entrance into Parliament up to his appointment as Attorney-General, his practice had steadily

[1] Mr. Stephenson, an important local Liberal, was against Home Rule

increased. In 1880 his income was 12,465*l.*; in 1881 it reached 14,666*l.*; in 1882 it reached the grand total of 18,133*l.*; in 1883 it fell to 15,777*l.*; but in 1884 it leaped up again to 17,485*l.*; in 1885 it was 16,717*l.*; and in 1886 17,957*l.*

In December 1886 he appeared in one of his most famous cases, Campbell *v.* Campbell and Marlborough. It was a petition for divorce filed by Lord Colin Campbell, the Duke of Marlborough and others being co-respondents; a cross-petition for divorce was also filed by Lady Colin Campbell, and Russell was her counsel. In the result both petitions were dismissed. I have heard those competent to speak on the subject say that, upon the whole, this case was Russell's greatest success at the Bar.

'It was a splendid feat of advocacy,' says an eminent Queen's Counsel who heard the trial from beginning to end. 'Russell rose to real heights of eloquence in the Colin Campbell case,' says one who is now a distinguished judge of the High Court. His cross-examination was in his best form, and his speech a wonderful display of forensic skill and power. Unfortunately we have no good report of it, but I am able to give the short hand note—more or less imperfect—of the peroration:

I have little more to say. Your verdict of guilty or acquittal will close this sad controversy. It is important for Lord Colin Campbell; it is infinitely more important for his wife. To her it may mean lifelong condemnation, loss of friends, a dark and cheerless future. She is as much upon her trial to-day as if she sat in the shadow of a criminal dock; and just as it would be your duty then to weigh the evidence carefully, so it is your duty now. A serious and solemn duty lies before you. If,

upon the whole consideration of the case, your minds are driven to one conclusion, and that a conclusion of guilt, say so. But if, on calm and dispassionate consideration, you believe that it is a case made up in part of distrust, in part of exaggeration, in part of misrepresentation, in part of lying, and if you are not able to put your hand upon the evidence of any man or any woman and say, 'Upon that evidence I can satisfactorily rely,' then, if that be your state of mind, take away no man's and no woman's reputation on such evidence. I will not dwell on the consequences of your verdict to others. I will make but a passing reference to those parents, devoted and proud, already bent in age, and who will hereafter be bent in shame if your verdict will condemn their child. I make no appeal for mercy. I ask for justice, justice, justice, which forbids life or fame to be sacrificed save on evidence at once credible and cogent. Gentlemen, Lady Colin Campbell's life—nay, something dearer than life—is in your hands; and with an earnest heart and with a spirit of reverence I would humbly pray that your mind and your judgments be inclined to give in this case a just and honest deliverance.

I shall close this chapter by giving a fac-simile of the note from which Russell spoke.

CHAPTER XII

THE PARNELL COMMISSION

In 1887 the Home Rule agitation was at its height in England, and Russell was in the thick of the fight.

Few men were invited to attend more public meetings throughout the country, and none responded more cheerfully to these invitations.

'Do you remember,' wrote one of his correspondents, 'the picture in *Punch* some years ago of a tenants' dinner? One of the farmers is making a speech, and says, "If *all* squires would do as *our* do, why, there would be fewer on 'em do as they *do* do." So if others would do for Home Rule what you have done, there would be a better chance of its success.'

Another wrote: 'Many thanks for your cordial note. I know not how you do it; how a busy man like you are can give up your time to the cause with such lavish extravagance I cannot tell; but I can assure you that it is much appreciated.' A third wrote: 'The first annual meeting of the Home Rule Union takes place on Saturday, June 18, at 2 P.M. at the National Liberal Club. We would be extremely glad if you, who have done harder work for us than any leading Liberal, would manage to be present. You have responded so generously to every call made on your time

and energy, that I am almost afraid to lay another straw on you, but your presence would give us so much pleasure that I cannot spare you this time.'

In November 1887 Sir William Harcourt wrote :

I have read with admiration and humiliation the list you have sent my son of the meetings you have attended and are to attend. It is miraculous to me how, with all your work, you find the energy and time for it all. We ought to be and are very grateful to you for such self-sacrificing energy. I am myself quite unequal to your prolific capacity.

In January 1888 Mr. Darling wrote one of his lively notes :

My only feeling with regard to your going to Deptford to speak for Mr. Blunt is one of regret that he has so strong an advocate. Of course I prefer him to be assisted by people of the calibre of ——. . . .

I also speak in Deptford to-morrow, which I arranged in the hope that a lot of fellows who hitherto have disturbed my meetings will be occupied in applauding you.

After one Long Vacation Russell returned to the Courts, looking as exhausted as when he had left them. Lord Esher, observing what little benefit he seemed to have derived from his holiday, sent him the following note from the Bench :

My dear old Friend,—If you had gone to Monte Carlo, and had done what I didn't do, instead of making d——d speeches, you would have looked better than you do. I hope your looks belie you.

Yours,
Esher.

Those who speak lightly of Russell's 'failure' in

politics do not realise the work he did in the days of the Home Rule agitation. He made no great speeches. Indeed, he often made the same speech over and over again in some shape or form. Nevertheless, his appearance on a public platform was talismanic in its effects. 'I do not want to hear Sir Charles Russell,' some one said, 'I only want to look at him.' And one was the better for looking at his manly countenance, and listening to his vigorous sentences. On the platform as in Parliament and the Law Courts he was a personage, and influenced by force of character if not by oratorical display. Sitting in recent years in the gallery of the House of Commons, I have recalled those occupants of the front benches whose faces it was an intellectual pleasure to watch ; and foremost among the men who came back to my mind were Gladstone, Disraeli, Bright, Parnell, and Charles Russell.

We now come to *the* great event in the life of Russell —the defence of Parnell. I have already told this story ;[1] but I must return to it, dwelling on those points which relate chiefly to Russell's career, and giving an inside rather than an outside view of the case.

In March 1887 the *Times* began the publication of a series of articles entitled 'Parnellism and Crime.' These articles were written to prove that the Parnell movement was a revolutionary movement, stained by crime, and designed to overthrow British authority in Ireland.

In April the *Times* went a step further, and published a facsimile letter, purporting to bear Parnell's signature, in which the murder of Lord Frederick Cavendish (Chief

[1] *Life of Parnell.*

Secretary for Ireland) and Mr. Burke (Under-Secretary)[1] in the Phœnix Park, Dublin, on May 6, 1882, was excused. The letter ran as follows :

'Dear Sir,—I am not surprised at your friend's anger, but he and you should know that to denounce the murders was the only course open to us. To do that promptly was plainly our best policy. But you can tell him, and all others concerned, that, though I regret the accident of Lord F. Cavendish's death, I cannot refuse to admit that Burke got no more than his deserts. You are at liberty to show him this, and others whom you can trust also, but let not my address be known. He can write to the House of Commons.

'Yours very truly,

'Charles S. Parnell.'

The publication of this letter, of course, made a great stir. It was discussed in Parliament and in the country, and people felt that a serious blow had been struck at the prestige of the Irish leader. He alone treated the matter with characteristic *sang froid*, simply stating in the House of Commons that the letter was a forgery, and taking no further trouble about the business. The subject was then for the moment allowed to drop ; meanwhile the *Times* went on publishing 'Parnellism and Crime.' One day, calling as usual at Russell's chambers, I found him writing a letter. 'Do you know, my friend,' he said, 'that I hold a general retainer for the *Times*?' Then, with a smile and an arch look, 'I suppose you think that is a

[1] They were killed by the agents of 'a murder society self-called the "Invincibles," which had sprung up under Mr. Forster's *régime*, for the purpose, as one of them said, of "making history" by "removing" obnoxious political personages.'

bad business?' I told him that I was aware of the fact. 'And I must tell you,' he continued, 'whatever you and I may think of the *Times* politically, they are satisfactory people to do business with; they are generous, big—but (with a wave of the hand) that is not the question. I am writing to give up my retainer. I find it ties my hands. I cannot deal with such questions as "Parnellism and Crime," for instance, as freely as I should like while I hold their retainer.' He then read the following letter to me:

DEAR SIR,—As the writings in the *Times* under the title 'Parnellism and Crime,' and in relation to that subject, are now under discussion in Parliament, in which discussion I may be called upon to take part, I think you will agree with me that it would be better, at such a juncture, I should not continue to hold the general retainer for the *Times*.

This letter was written to Mr. Soames (the *Times* solicitor); but it was not apparently then acted upon.

The discussions in Parliament were dropped, and the question of Russell's relations with the *Times* seems to have remained for a while in abeyance. However, twelve months later the whole subject was revived. Mr. F. H. O'Donnell, an ex-Irish M.P., feeling himself aggrieved by certain statements in 'Parnellism and Crime,' took proceedings against the *Times*. The *Times* pleaded that nothing in the articles pointed at Mr. O'Donnell, and the jury took the same view of the case. However, in the conduct of the suit, the *Times* counsel (Sir Richard Webster, then Attorney-General) reiterated the charges levelled at Parnell and Parnellism, and the old discussion about the Parnell movement and the facsimile letter was

reopened. Parnell now asked for the appointment of a Select Committee to inquire whether the facsimile letter was a forgery. The Government refused this request, but proposed instead to appoint a Special Commission, composed of three judges, to investigate *all* the charges made by the *Times*. While the question was still under consideration, Russell wrote again to Mr. Soames on July 16, 1888:

It has become clear I cannot continue to hold the *Times* general retainer, and I feel sure you will agree with me it ought to be considered at an end. . . . . The proposed Bill of the Government and the forthcoming discussion upon it, and consequent upon it, render the course I now take absolutely necessary. I cannot close this note without acknowledging the uniform kindness and courtesy which I have received at your hands.

On September 3 Mr. Soames wrote expressing regret at Russell's decision, 'for the reason that I have always felt that the interests of the paper were safe in your hands and that no one could accomplish more for it than you.' He urged that, as it was 'understood between us that I would not ask you to hold a brief in a case having a political aspect, and in which you do not wish to appear, I hardly understand how the holding of the retainer fetters your political action.' He concluded: 'I fully understand that it is only for the reason that you feel the retainer sometimes fetters your action in Parliament that you wish to relinquish it, and of course am satisfied that you would not desire to return it in order to be at liberty to represent persons whose interests may be antagonistic to the paper.' Russell replied (from Carlsbad) on September 7:

To-day I received your letter of the 3rd instant, which greatly surprises me. I *do* desire to represent 'persons whose interests may be antagonistic to those of the paper'—to use your own language. In other words I desire to appear for the Irish party on the Commission, as I conceive I have a right to do. Does the *Times* object? I wish to know this, and will beg an answer by return of post to 10 New Court, Lincoln's Inn, whither I almost immediately return. . . .

The upshot was that Russell returned the general retainer, and appeared before the Special Commission on October 22, 1888, as leading counsel for Parnell. The Attorney-General (Sir Richard Webster) led for the *Times*. The Commissioners were Mr. Justice (afterwards Lord) Hannen, Mr. Justice Day, and Mr. Justice Smith (now Master of the Rolls). The charges of the *Times* were practically twofold: (1) against Parnell personally for writing the facsimile letter; (2) against sixty-five Irish members by name (but really against the whole Irish parliamentary party) for belonging to a lawless, violent, rebellious, and even a murderous organisation whose aim was the plunder of landlords and the overthrow of English rule.

I was out of London at the opening of the Commission, and did not call upon Russell until the middle of November. On entering his room I was met with a disagreeable look and the exclamation, 'You ought to be ashamed of yourself.'

'Why?' I asked.

Russell: 'This case has been on for a month and you have not put in an appearance during the whole of the time.'

'Well,' I said, 'I am on the spot now at all events.'

Russell: 'Yes, and quite time too; and let me tell you your friend Parnell has been acting very badly. He is a selfish fellow. He thinks only of himself.'

I said, 'And quite right too; for he is worth more to Ireland than anybody else.'

Russell: 'He takes no trouble about any part of the case but the forged letter.'

I said, 'He is perfectly right; there is nothing in the case but the forged letter.'

Russell: 'I beg your pardon, I think there is something else in the case besides the forged letter. There are specific charges against others and against the movement generally which have to be met; and Parnell ought to trouble himself about these charges and ought to help us to meet them. But he will not even come to consultations except to discuss what directly concerns himself.'

I said, 'That is, the forged letter?'

Russell: 'Yes.'

I repeated, 'And he is perfectly right.' Russell shook his head and looked angry. 'Will you let me,' I said, 'put a point to you?'

Russell (with characteristic readiness to listen to you, no matter how angry or how much opposed to you he might be): 'Certainly.'

I continued, 'Suppose you prove that this letter is a forgery—prove it to the whole world—leave nobody in doubt—what becomes of the *Times*, even though they should prove the statements in "Parnellism and Crime" up to the hilt? They are beaten: no question about it.'

Russell: 'Yes, yes, yes, I understand that.'

I said, 'Well, I have not finished yet.'

Russell: 'Go on.'

'But suppose you don't prove the letter to be a forgery, and the *Times* does not make good its charges against the movement generally, then you are smashed beyond all doubt. Is the Court with me so far?'

Russell (smiling): 'I quite appreciate what you say, my friend, but it is not the point. The letter of course is the main thing; but the case has to be fought through—letter and charges. Parnell ought to throw himself into the whole case, and he does not. That, my friend, is the point.'

I said, 'Parnell does what you always do.'

Russell: 'What is that?'

I answered, 'He gets at the kernel of the case, which is the letter. Who cares about the charges? It is an old story now; in addition, it is in the main true.'

Russell: 'What do you mean?'

I said, 'I mean that the Land League movement was a lawless, a rebellious, a violent movement. These men set Ireland in a blaze, and meant to set her in a blaze. That is fact number one. Fact number two is that, if Ireland had not been set in a blaze, there would be no Land Act in the Statute-book to-day. All that we have ever got from England we have got by lawlessness and violence; and I am afraid to say how much has been got even by murder and outrage. But at whose door lies the blame? If England will only yield to this kind of pressure, she cannot be surprised if it is forthcoming.'

Russell (quietly and gravely): 'I know, my friend—I quite understand your case—and I know the part which, unfortunately, lawlessness and violence have played in

Irish agitation. But what I complain of in you is that you will not admit that any change has taken place in the public opinion of this country towards Ireland—that any change has taken place in the feelings of Englishmen towards Ireland—but really all this is beside the mark. We are wasting our time. Apply your mind, my friend, to the case. The general charges, as well as the forged letter, have to be met. Bear that in mind. How are they to be met?—that is the point. Suppose you had the conduct of this case, suppose you had to make the speech which I have to make, what line would you take?'

This was a formula of Russell's, and an effective formula. By asking you at once what line you would take, he put you on your mettle, and generally cornered you. There was no evading this question. It brought you sharp up to the point. 'Stand up,' he said, to A. M. Sullivan in the O'Donnell case, 'and address me as if I were the jury.' He received every suggestion, listened to every argument, took in every view, though, in the end, he might throw all over, and strike out a completely independent course. 'His receptivity was extraordinary,' says a keen observer, 'but it was creative receptivity'—a most just remark. Russell often threw more light upon a subject by a question than many another man would by a speech. With him it was not a matter of picking your brains, but of clearing them. He made you think and talk accurately, and occasionally taught you how imperfect after all was your knowledge of some subject on which you had spent years of laborious study. It was well for a man to have the search-light of Russell's genius turned full on his own unilluminated intelligence. To the question he now asked—'What line would you take?'

—I gave what will appear an obvious answer to those familiar with Irish history. I said, 'Do you remember O'Connell's defence of Magee?'

Russell: 'Indeed I do. It was the best speech O'Connell ever made.'

I said, 'Well, I suppose that is the line. O'Connell flung Magee to the winds, and made Ireland his client. Do you fling the Land Leaguers to the winds and make Ireland your client?'

Russell: 'Explain, my friend.'

I said, 'The *Times* has put the Land Leaguers in the dock. Turn the tables on the *Times*. Put England in the dock. Show her up.'

Russell: 'Don't be rhetorical. Come down to the case.'

I said, 'The case of the *Times*, the case of the Government, is that Ireland was a paradise, that landlord and tenant lived happily together until the Land League came.'

Russell: 'Ah, my friend, you are now coming to the case.'

I said, 'Well, you have to show that there has been a land war in Ireland since 1761—that this Land League business is an old business—that it has been going on all the time, shooting landlords, houghing cattle, boycotting—everything'

Russell: 'You recognise, I suppose, that a speech on those lines is really irrelevant to the issue before the Commission?'

I said, 'Yes, but so was O'Connell's speech in defence of Magee irrelevant to the issue.'

Russell: 'No doubt; but it does not follow that I can do what O'Connell did.'

I said I thought he could.

Russell: 'Well, I do not know that. But you say that we should give an account of agrarian troubles in Ireland during the last century or more. Well, how would you deal with these troubles? What would you say? Give me the history of them now.'

This I was easily able to do, for I had come fresh from the study of the period. I told him the story as well as I could. Russell listened patiently—the patience of this impatient man was wonderful. When I was done he said:

'Now suppose, when you had been speaking for a quarter of an hour or half an hour, the President said: "What has this to do with the case?" what would you do?'

I answered, 'I would collapse; the justice of the remark would overwhelm me.'

Russell: 'Just so, my friend; and that is the question that I shall be asked.'

I laughed and said, 'Well, you won't collapse.'

Russell: 'I don't know, my friend. The thing is not so easy as you seem to think.'

This was not affectation; there was not a particle of affectation about him; but his modesty, his simplicity, his actual diffidence, taken in connection with his extraordinary powers, was, I think, his most charming characteristic.

I said, 'I do not think it is so easy. No one but O'Connell could have made the speech which O'Connell made in Magee's case; and nobody but you can make the speech which ought to be made in this case. You can make it; the thing is not open to argument.'

Russell: 'Well, well, well—we must consider it carefully.'

I said, 'Assuredly this case is not going to be tried by the mere rules of Nisi Prius?'

Russell: 'I quite agree. This Commission is unique, and the defence should be unique. But what you call the rules of Nisi Prius cannot be altogether ignored. If you want to get in something that is irrelevant, you must try to justify your action, even by the rules of Nisi Prius—broadly considered, mark! You must keep close to the case, and you must not overcharge your statement. Remember these two things.'

I said that all I cared about was that these Commissioners should be told something of Irish history, that I did not know how it could be done, but that I was sure he could do it.

Russell: 'Very well, my friend, I will make this speech; or I will try to make it; and now I hand over that part of the case to you to work up. Now what are your authorities for the account you have given of agrarian troubles?'

I said, 'First, Sir George Cornewall Lewis's "Irish Disturbances." That book will carry you half through the historical part of your speech. It will dispose at once of the view that Ireland was a paradise until the Land League came. Then there is the Committee on outrages [House of Commons] in 1852—the very title is effective—in fact there are heaps of authorities.'

Russell: 'Yes, my friend, but they must be hostile authorities; we have to prove this case out of the mouths of adverse witnesses. Remember that.'

I said, 'Shall I note up these books for you, calling your attention to the important bits?'

Russell: 'No, get the books in here and I shall go through them all myself'; which he did religiously.

So ended our first talk on the trial.

Days, weeks, months passed and the Commission went on. The evidence of the *Times* was, roughly speaking, directed to two points: (1) to prove that 'crime dogged the footsteps of the League'; (2) that the Irish parliamentary party were in alliance with the Fenian organisation.

1. The *Times did* prove that, during the Land League agitation, lawlessness and anarchy prevailed, and that crime and outrage were rampant in many parts of the country. The *Times* did *not* prove that the Irish members were in any way implicated in outrages, though they made no serious effort to stop outrages. Boycotting was the great weapon of the League. Those who opposed the organisation were 'shunned as lepers of old,' and this 'social ostracism' was as effective as any Papal Bull of the middle ages. In truth, the Land League was all-powerful because it had what the English Government in Ireland never has had—popular sanction. This fact—really the main fact of the situation—the *Times* ignored.

2. The *Times* proved that Fenians or ex-Fenians and certain members of Parliament, and certain Leaguers were in touch, and that speeches and writings of almost all connected with the League breathed a spirit of lawlessness and revolt; but it did *not* prove that any alliance, strictly so called, existed between the Fenian organisation and the parliamentary party, nor that the aim of the League was to bring about a separation between England

and Ireland. In a word, the Parnellite party lived, moved, and had its being in an atmosphere of treason and lawlessness, but no overt acts were brought home to individuals.

As the case progressed, Russell spoke to me occasionally about the *Times* evidence. I did not, I am bound to say, take much interest in this part of the case, and I told him so. It was 'all so stale,' I said.

Russell: 'What do you mean?'

I replied that the Land League had been attacked as stoutly by Mr. Gladstone and Sir William Harcourt in 1880 and 1881 as it had ever been attacked by the *Times*, and that the upshot of all the Liberal denunciations was the Land Act of 1881 and the Arrears Act of 1882; that the Tories had attacked the League, and that the upshot of their attacks was the Tory Land Act of 1885 and the Carnarvon negotiations; that in March 1887 the *Times* began its articles on 'Parnellism and Crime,' and that before the end of the year Lord Salisbury passed another Land Act at the bidding of Parnell. The whole thing seemed to me, I said, farcical; 'English statesmen are always complaining of Irish lawlessness and always surrendering to it.'

Russell (smiling): 'You are, in fact, in sympathy with this part of the *Times* case, because you think it will prove your theory that nothing can be got except by lawlessness and violence.'

I said that five or six years hence I should be using the Commission to prove my theory, and to show that there was really no change in English public opinion towards Ireland.

Russell: 'There is a change, my friend, all the same. I go among the people and I know it. You don't.'

I said, 'But look at this very case. Sixty years ago the *Times* attacked O'Connell as it now attacks Parnell.'

Russell: 'Ah, that is more to the purpose. Now let me know exactly what the *Times* did say about O'Connell.'

I had read recently almost all the articles that the *Times* had written on Ireland since 1830, and was tolerably familiar with the great journal's operations in Irish politics. I gave Russell many extracts, calling his attention particularly to the fact that, during the administration of Thomas Drummond, when O'Connell had suspended the demand for repeal, and was working harmoniously with the Government, the *Times* denounced the Irish leader as persistently as ever. But the extract which pleased him best had been sent by Father Russell. 'This extract,' he said, 'is worth all the others,' and he read it: '"It has been proved beyond a doubt that Lord Mulgrave has actually invited to dinner that rancorous and foul-mouthed ruffian, Daniel O'Connell."'

'This extract,' he continued, 'throws a lurid light on the whole system of the government of Ireland—and on the character of the *Times*. I do not care for mere abuse and virulence. But here you have the Lord-Lieutenant of the country keeping in touch with the one man who possessed the confidence of the people of the country, and for this he is denounced by the *Times*. Lord Mulgrave and O'Connell both tried earnestly to bring about better relations between England and Ireland, and for this they were both attacked. It gives some colour, my friend, to your contention that moderation is of little use; (shaking his head) the *Times* has done more than any Irish agitator to keep the people of the two countries apart.'

I met him shortly afterwards at a dinner party, and he referred to this quotation again, calling the attention of our hostess—the widow of Thomas Drummond—to the *Times*' attacks on the Irish administration of her husband.

It was very pleasant working with Russell in those days; it was very interesting to see his great speech gradually taking shape in his mind.

One day we talked over the state of Ireland between 1850 and 1860. I said, 'You ought to see John Cashel Hoey on this period, and indeed on every period. He knows more about Irish history than any of us.'

'You are right,' said Russell, 'I ought to have thought of him before.' I suggested that he should ask Hoey down to Tadworth, which he did. Hoey gave me an account of the visit afterwards. 'Russell,' said he, 'does not leave many corners of your mind unsearched'; and few men had a better-stored mind than this able and kind-hearted northerner, who, like Russell himself, came from the town of Newry. Russell was helped by two other northerners in the historical part of the case—Judge O'Hagan and Sir Gavan Duffy.

The Commission dragged its weary length along, and the stale story of agrarian outrages, Land League lawlessness, and Fenian plots were spun out until the whole investigation palled on the public mind, and every one asked, 'When shall we get to the letter?' The Irish members said from the outset that the letter had been forged by Richard Pigott—the same Richard Pigott who had been clerk in the *Ulsterman* office in Russell's Belfast days, and who had now, after a career of ill-fortune and ill-fame, sunk to the lowest depths of

misery and despair. In February 1889 it was known that the *Times* had bought the letter from Mr. Houston the Secretary of the Irish Loyal and Patriotic Union, and that Mr. Houston had bought it from Pigott. But how did Pigott come by it? That was the question of the hour, and people looked forward to the day when Pigott should go into the box to tell his story, and when Sir Charles Russell would rise to cross-examine him.

'Have you any materials for the cross-examination of Pigott?' I asked Russell.

'Mind your own part of the case,' was the sharp rejoinder. He did not wish to discuss Pigott. However, I followed up the subject on my own account, and learned that he had materials for the 'annihilation' of the 'forger.' I saw him subsequently.

'I know all about Pigott,' I said; 'I hear you have materials for his cross-examination.'

He looked surprised and a little angry.

'What do you know?' he asked.

'I know,' I replied, 'that you have got materials from Archbishop Walsh.'

Russell: 'Then you ought not to know it. If it were my secret I would have told it to you. It is not my secret, it is Dr. Walsh's, and no one ought to have spoken about it. He does not wish to have it mentioned, and you can see yourself how important it is to keep everything very secret relating to Pigott. You know how much depends upon his cross-examination.'

About a week before Pigott was called, Russell grew restless and irritable. He looked ill. As usual, I sat occasionally with him at luncheon. He did not like to speak about the case. It pleased him best to talk of

something far away from the Special Commission. At times he remained altogether silent, looking fixedly on his plate, and giving no sign. His expression was grave, thoughtful, anxious ; and his face and manner showed that the strain upon him was intense. Every one knew that all depended on the cross-examination of the man who sold the letter to the Irish Loyal and Patriotic Union. Russell *felt* it.

On Wednesday, February 20, Pigott went into the box. He looked well and pugnacious. Any person unaware of the flaws in his character would have regarded him as a respectable man, and a staying witness. He gave his evidence clearly and calmly ; and at the conclusion of the first day's examination left the box with a self-satisfied expression. On Thursday morning he returned, looking radiant, and confidently surveyed the Court. Before the adjournment for luncheon the examination-in-chief closed.

His evidence, so far as the letter was concerned, came, practically, to this : he had been employed by the Irish Loyal and Patriotic Union to hunt up documents which might incriminate Parnell, and he had bought the facsimile letter, with other letters, in Paris from an agent of the Clan-na-Gael, who had no objection to injure Parnell for a valuable consideration.[1]

On the rising of the Court Russell returned to his chambers. I went with him. We sat at luncheon together. He looked unusually pale, talked little, and was impatient and irritable. He mentioned some point on which I differed from him. ' Don't argue,' he said with an angry gesture ; then added gently, ' Don't you see how

[1] Special Commission, Q. 51,872.

highly strung I am?' He seemed to have a poor appetite, and rather forced himself to eat; but he enjoyed a deep draught of Apollinaris water. After luncheon he turned his chair towards the fire and took a stiff pinch of snuff. 'I'll have a pinch too,' I said. He smiled and handed me the box. 'Do you remember,' I asked, 'Dr. Kenealy's theory about snuff-taking?' 'No,' he answered. 'He said,' I rejoined, 'that excessive snuff-taking destroyed the intellect!' 'Ha!' said Russell, getting up and going to wash his hands. 'I never knew that Kenealy had stated that theory,' he remarked, after a short pause in the middle of his ablutions. 'Oh, yes,' I said, 'and he urged that excessive snuff-taking had weakened the memory of Roger Tichborne. I remember the incident very well, for while he was developing his argument you suddenly came into Court and took a seat in the front row, producing your snuff-box on the instant. The Bar laughed, and the judges joined in the general merriment. You looked bewildered, which made people laugh the more. At last you asked Pat MacMahon what it was all about and he told you.' 'Poor MacMahon!' said Russell, 'I had a great regard for him.' He then walked back to the table, put on his wig, and strode out of the room. I followed. 'Where are you going?' he asked as we walked across the yard. 'To see Pigott smashed,' I replied. He lapsed into silence and we entered the Court again. I stood near the clock just facing the witness-box, and had an excellent view both of Russell and Pigott, whom I watched alternately during the memorable encounter. At about twenty minutes past two Pigott stepped jauntily into the box and Russell rose. I never saw such a sudden metamor-

phosis in any man. During the whole week or more he had looked pale, worn, anxious, nervous, distressed. He was impatient, irritable, at times disagreeable. Even at luncheon, half an hour before, he seemed to be thoroughly out of sorts, and gave you the idea rather of a young junior with his first brief than of the most formidable advocate at the Bar. Now all was changed. As he stood facing Pigott, he was a picture of calmness, self-possession, strength; there was no sign of impatience or irritability; not a trace of illness, anxiety, or care; a slight tinge of colour lighted up the face, the eyes sparkled, and a pleasant smile played about the mouth. The whole bearing and manner of the man, as he proudly turned his head towards the box, showed courage, resolution, confidence. Addressing the witness with much courtesy, while a profound silence fell upon the crowded Court, he began: 'Mr. Pigott, would you be good enough, with my Lords' permission, to write some words on that sheet of paper for me? Perhaps you will sit down in order to do so?' A sheet of paper was then handed to the witness. I thought he looked for a moment surprised. This clearly was not the beginning that he had expected. He hesitated, seemed confused. Perhaps Russell observed it. At all events he added quickly:

'Would you like to sit down?'

'Oh, no, thanks,' replied Pigott, a little flurried.

The President: 'Well, but I think it is better that you should sit down. Here is a table upon which you can write in the ordinary way—the course you always pursue.'

Pigott sat down, and seemed to recover his equilibrium.

Russell: 'Will you write the word "livelihood"?

Pigott wrote.

Russell: 'Just leave a space. Will you write the word "likelihood"?'

Pigott wrote.

Russell: 'Will you write your own name? Will you write the word "proselytism"; and finally (I think I will not trouble you at present with any more) "Patrick Egan" and "P. Egan"?'

He uttered these last words with emphasis, as if they imported something of great importance. Then, when Pigott had written, he added carelessly, 'There is one word I had forgotten. Lower down, please, leaving spaces, write the word "hesitancy."' Then, as Pigott was about to write, he added, as if this were the vital point, 'with a small "h".' Pigott wrote and looked relieved.

Russell: 'Will you kindly give me the sheet?'

Pigott took up a bit of blotting paper to lay on the sheet, when Russell, with a sharp ring in his voice, said rapidly, 'Don't blot it, please.' It seemed to me that the sharp ring in Russell's voice startled Pigott. While writing he had looked composed; now again he looked a little flurried, and nervously handed back the sheet. The Attorney-General looked keenly at it, and then said, with the air of a man who had himself scored, 'My Lords, I suggest that had better be photographed, if your Lordships see no objection.'

Russell (turning sharply towards the Attorney-General, and with an angry glance and an Ulster accent, which sometimes broke out when he felt irritated): 'Do not interrupt my cross-examination with that request.'

Little did the Attorney-General at that moment know that, in the ten minutes or quarter of an hour which it had taken to ask these questions, Russell had gained a

decisive advantage. Pigott had in one of his letters to Pat Egan spelt 'hesitancy' thus: 'hesitency.' In one of the incriminatory letters 'hesitancy' was so spelt; and in the sheet now handed back to Russell, Pigott had written 'hesitency' too. In fact, it was Pigott's spelling of this word that had put the Irish members on his scent. Pat Egan, seeing the word spelt with an 'e' in one of the incriminatory letters, had written to Parnell saying in effect 'Pigott is the forger. In the letter ascribed to you "hesitancy" is spelt "hesitency." That is the way Pigott always spells the word.' These things were not dreamt of in the philosophy of the Attorney-General when he interrupted Russell's cross-examination with the request that the sheet 'had better be photographed.' So closed the first round of the combat.

Russell went on in his former courteous manner, and Pigott, who had now completely recovered confidence, looked once more like a man determined to stand to his guns.

Russell, having disposed of some preliminary points, at length (and after he had been perhaps about half an hour on his feet) closed with the witness.

Russell: 'The first publication of the articles "Parnellism and Crime" was on the 7th March, 1887?'

Pigott (sturdily): 'I do not know.'

Russell (amiably): 'Well, you may assume that is the date.'

Pigott (carelessly): 'I suppose so.'

Russell: 'And you were aware of the intended publication of the correspondence [the incriminatory letters]?'

Pigott (firmly): 'No, I was not at all aware of it.'

Russell (sharply, and with the Ulster ring in his voice): 'What?'

Pigott (boldly): 'No, certainly not.'

. . . . . .

Russell: 'Were you not aware that there were grave charges to be made against Mr. Parnell and the leading members of the Land League?'

Pigott (positively): 'I was not aware of it until they actually commenced.'

Russell (again with the Ulster ring): 'What?'

Pigott (defiantly): 'I was not aware of it until the publication actually commenced.'

Russell (pausing, and looking straight at the witness): 'Do you swear that?'

Pigott (aggressively): 'I do.'

Russell (making a gesture with both hands, and looking towards the Bench): 'Very good, there is no mistake about that.'

Then there was a pause; Russell placed his hands beneath the shelf in front of him, and drew from it some papers—Pigott, the Attorney-General, the judges, every one in Court looking intently at him the while. There was not a breath, not a movement. I think it was the most dramatic scene in the whole cross-examination, abounding as it did in dramatic scenes. Then, handing Pigott a letter, Russell said calmly:

'Is that your letter? Do not trouble to read it; tell me if it is your letter.'

Pigott took the letter, and held it close to his eyes as if reading it.

Russell (sharply): 'Do not trouble to read it.

Pigott: 'Yes, I think it is.'

Russell (with a frown): 'Have you any doubt of it?'

Pigott: 'No.'

Russell (addressing the judges): 'My Lords, it is from Anderton's Hotel, and it is addressed by the witness to Archbishop Walsh. The date, my Lords, is the 4th of March, three days before the first appearance of the first of the articles, "Parnellism and Crime."'

He then read:

'"Private and Confidential.

'"My Lord,—The importance of the matter about which I write will doubtless excuse this intrusion on your Grace's attention. Briefly, I wish to say that I have been made aware of the details of certain proceedings that are in preparation with the object of destroying the influence of the Parnellite party in Parliament."'

Having read this much Russell turned to Pigott and said:

'What were the certain proceedings that were in preparation?'

Pigott: 'I do not recollect.'

Russell (resolutely): 'Turn to my Lords and repeat the answer.'

Pigott: 'I do not recollect.'

Russell: 'You swear *that*—writing on the 4th March, less than two years ago?'

Pigott: 'Yes.'

Russell: 'You do not know what that referred to?'

Pigott: 'I do not really.'

Russell: 'May I suggest to you?'

Pigott: 'Yes, you may.'

Russell: 'Did it refer to the incriminatory letters among other things?'

Pigott: 'Oh! at that date. No, the letters had not been obtained, I think, at that date, had they, two years ago?'

Russell (quietly and courteously): 'I do not want to confuse you at all, Mr. Pigott.'

Pigott: 'Would you mind giving me the date of that letter?'

Russell: 'The 4th of March.'

Pigott: 'The 4th of March.'

Russell: 'Is it your impression that the letters had not been obtained at that date?'

Pigott: 'Oh, yes, some of the letters had been obtained before that date.'

Russell: 'Then, reminding you that some of the letters had been obtained before that date, did that passage that I have read to you in that letter refer to these letters among other things?'

Pigott: 'No, I rather fancy they had reference to the forthcoming articles in the *Times*.'

Russell (glancing keenly at the witness): 'I thought you told us you did not know anything about the forthcoming articles?'

Pigott (looking confused): 'Yes, I did. I find now I am mistaken—that I must have heard something about them.'

Russell (severely): 'Then try not to make the same mistake again, Mr. Pigott. "Now," you go on (continuing to read from Pigott's letter to the Archbishop), "I cannot enter more fully into details than to state that the proceedings referred to consist in the publication of certain statements purporting to prove the complicity of Mr. Parnell himself, and some of his supporters, with

murders and outrages in Ireland, to be followed in all probability by the institution of criminal proceedings against these parties by the Government.'' '

Having finished the reading, Russell laid down the letter and said (turning towards the witness): 'Who told you that?'

Pigott: 'I have no idea.'

Russell (striking the paper energetically with his fingers): 'But that refers among other things to the incriminatory letters?'

Pigott: 'I do not recollect that it did.'

Russell (with energy): 'Do you swear that it did not?'

Pigott: 'I will not swear that it did not.'

Russell: 'Do you think it did?'

Pigott: 'No, I do not think it did.'

Russell: 'Do you think that these letters, if genuine, would prove or would not prove Parnell's complicity in crime?'

Pigott: 'I thought they would be very likely to prove it.'

Russell: 'Now, reminding you of that opinion, I ask you whether you did not intend to refer, not solely I suggest, but among other things to the letters as being the matter which would prove complicity or purport to prove complicity?'

Pigott: 'Yes, I may have had that in my mind.'

Russell: 'You could have had hardly any doubt that you had?'

Pigott: 'I suppose so.'

Russell: 'You suppose you may have had?'

Pigott: 'Yes.'

Russell: 'There is the letter and the statement: (reading) "Your Grace may be assured that I speak with full knowledge, and am in a position to prove, beyond all doubt and question, the truth of what I say." Was that true?'

Pigott: 'It could hardly be true.'

Russell: 'Then did you write that which was false?'

Pigott: 'I suppose it was in order to give strength to what I said. I do not think it was warranted by what I knew.'

Russell: 'You added the untrue statement in order to add strength to what you said?'

Pigott: 'Yes.'

Russell: 'You believe these letters to be genuine?'

Pigott: 'I do.'

Russell: 'And did at this time?'

Pigott: 'Yes.'

Russell (reading): '"And I will further assure your Grace that I am also able to point out how these designs may be successfully combated and finally defeated." How, if these documents were genuine documents, and you believed them to be such, how were you able to assure his Grace that you were able to point out how the design might be successfully combated and finally defeated?'

Pigott: 'Well, as I say, I had not the letters actually in my mind at that time. So far as I can gather, I do not recollect the letter [to Archbishop Walsh] at all. My memory is really a blank on the circumstance.'

Russell: 'You told me a moment ago, after great deliberation and consideration, you had both [the incriminatory letters and the letter to Archbishop Walsh] in your mind?'

Pigott: 'I said it was probable I did; but I say the thing has completely faded out of my mind.'

Russell (resolutely): 'I must press you. Assuming the letters to be genuine, what were the means by which you were able to assure his Grace that you could point out how the design might be successfully combated and finally defeated?'

Pigott (hopelessly): 'I cannot conceive really.'

Russell: 'Oh! try. You must really try.'

Pigott (in manifest confusion and distress): 'I cannot.'

Russell (looking fixedly at the witness): 'Try.'

Pigott: 'I cannot.'

Russell: 'Try.'

Pigott: 'It is no use.'

Russell (emphatically): 'May I take it, then, your answer to my Lords is that you cannot give any explanation?'

Pigott: 'I really cannot absolutely.'

Russell (reading): '"I assure your Grace that I have no other motive except to respectfully suggest that your Grace would communicate the substance to some one or other of the parties concerned, to whom I could furnish details, exhibit proofs, and suggest how the coming blow may be effectually met." What do you say to that, Mr. Pigott?'

Pigott: 'I have nothing to say except that I do not recollect anything about it absolutely.'

Russell: 'What was the coming blow?'

Pigott: 'I suppose the coming publication.'

Russell: 'How was it to be effectively met?'

Pigott: 'I have not the slightest idea.'

Russell: 'Assuming the letters to be genuine, does it

not even now occur to your mind how it could be effectively met?'

Pigott: 'No!'

Pigott now looked like a man, after the sixth round in a prize fight, who had been knocked down in every round. But Russell showed him no mercy. I shall take another extract.

. . . . . .

Russell: 'Whatever the charges [in "Parnellism and Crime," including the letters] were, did you believe them to be true or not?'

Pigott: 'How can I say that when I say I do not know what the charges were? I say I do not recollect that letter [to the Archbishop] at all, or any of the circumstances it refers to.'

Russell: 'First of all you knew this: that you procured and paid for a number of letters?'

Pigott: 'Yes.'

Russell: 'Which, if genuine, you have already told me, would gravely implicate the parties from whom these were supposed to come?'

Pigott: 'Yes, gravely implicate.'

Russell: 'You would regard that, I suppose, as a serious charge?'

Pigott: 'Yes.'

Russell: 'Did you believe that charge to be true or false?'

Pigott: 'I believed that charge to be true.'

Russell: 'You believed that to be true?'

Pigott: 'I do.'

Russell: 'Now I will read this passage [from Pigott's letter to the Archbishop]: "I need hardly add that, did I

consider the parties really guilty of the things charged against them, I should not dream of suggesting that your Grace should take part in an effort to shield them ; I only wish to impress on your Grace that the evidence is apparently convincing, and would probably be sufficient to secure conviction if submitted to an English jury." What do you say to that, Mr. Pigott?'

Pigott (bewildered) : 'I say nothing, except that I am sure I could not have had the letters in my mind when I said that, because I do not think the letters conveyed a sufficiently serious charge to cause me to write in that way.'

Russell : 'But you know that was the only part of the charge, so far as you have yet told us, that you had anything to do in getting up?'

Pigott : 'Yes, that is what I say ; I must have had something else in my mind which I cannot at present recollect—that I must have had other charges.'

Russell : 'What charges?'

Pigott : 'I do not know. That is what I cannot tell you.'

Russell : 'Well, let me remind you that that particular part of the charges—the incriminatory letters—were letters that you yourself knew all about?'

Pigott : 'Yes, of course.'

Russell (reading from another letter of Pigott's to the Archbishop) : '"I was somewhat disappointed in not having a line from your Grace, as I ventured to expect I might have been so far honoured. I can assure your Grace that I have no other motive in writing save to avert, if possible, a great danger to people with whom your Grace is known to be in strong sympathy. At the

same time, should your Grace not desire to interfere in the matter, or should you consider that they would refuse me a hearing, I am well content, having acquitted myself of what I conceived to be my duty in the circumstances. I will not further trouble your Grace save to again beg that you will not allow my name to transpire, seeing that to do so would interfere injuriously with my prospects, without any compensating advantage to any one. I make the request all the more confidently because I have had no part in what is being done to the prejudice of the Parnellite party, though I was enabled to become acquainted with all the details.'

Pigott (with a look of confusion and alarm): 'Yes.'

Russell: 'What do you say to that?'

Pigott: 'That appears to me clearly that I had not the letters in my mind.'

Russell: 'Then if it appears to you clearly that you had not the letters in your mind, what had you in your mind?'

Pigott: 'It must have been something far more serious.'

Russell: 'What was it?'

Pigott (helplessly; great beads of perspiration standing out on his forehead and trickling down his face): 'I cannot tell you. I have no idea.'

Russell: 'It must have been something far more serious than the letters?'

Pigott (vacantly): 'Far more serious.'

Russell (briskly): 'Can you give my Lords any clue of the most indirect kind to what it was?'

Pigott (in despair): 'I cannot.'

Russell: 'Or from whom you heard it?'

Pigott: 'No.'

Russell: 'Or when you heard it?'

Pigott: 'Or when I heard it.'

Russell: 'Or where you heard it?'

Pigott: 'Or where I heard it.'

Russell: 'Have you ever mentioned this fearful matter—whatever it is—to anybody?'

Pigott: 'No.'

Russell: 'Still locked up, hermetically sealed in your own bosom?'

Pigott: 'No, because it has gone away out of my bosom, whatever it was.'

On receiving this answer Russell smiled, looked at the Bench, and sat down. A ripple of derisive laughter broke over the Court, and a buzz of many voices followed. The people standing around me looked at each other and said, 'Splendid.' The judges rose, the great crowd melted away, and an Irishman who mingled in the throng expressed, I think, the general sentiment in a single word, 'Smashed.' The cross-examination had commenced at about twenty minutes past two; it was over for the day at about twenty minutes to four, when Pigott left the box a broken man. One hour later Russell sat alone in his chambers. One of his 'devils' came in to talk about another case. Russell listened for a while, and then said, 'It is no use. I can't attend to it. You don't know how this kind of thing takes it out of a man. I won't do anything until to-morrow.' On the morrow Pigott reappeared. But the crisis was over. He could no longer stand up to his man, and with every blow Russell now beat him to the ropes. Witness what was written by the late Mrs.

Sydney Buxton: 'I spent Thursday and Friday, 21st and 22nd, at the Parnell Commission, hearing Pigott examined, and coming in for the whole of his cross-examination by Sir C. Russell. There was only one and a quarter hour of this on Thursday afternoon, but it was the turn of the tide. It was the most exciting time I ever spent. In the end we came away simply astonished that a fellow-creature could be such a liar as Pigott. It was very funny too; but I could not help thinking of Becky Sharp's "It's so easy to be virtuous on 5,000*l.* a year," and to see the old man standing there with everybody's hand against him, driven into a corner at last, after all his turns and twists, was something pathetic. Of course, it is a tremendous triumph for the Home Rulers.' On Friday, Feb. 22, the Court adjourned until Tuesday, 26th. On that morning Pigott was again called, but there was no answer.

The President: 'Where is the witness?'

The Attorney-General: 'My Lords, as far as I know, I have no knowledge whatever of the witness; but I am informed that Mr. Soames has sent to his hotel, and he has not been there since eleven last night.'

Russell: 'If there is any delay in his appearance I ask your Lordship to issue a warrant for his apprehension and to issue it immediately.'

It was decided, however, that no steps should be taken until next day.

Next day the Attorney-General informed the Court that a document in Pigott's handwriting had been received from Paris. A closed envelope, addressed to one of the *Times* agents, was then handed to Mr. Cunynghame, Secretary to the Commission. The envelope

contained a confession of guilt taken down by Mr. Labouchere, M.P., in the presence of Mr. G. A. Sala, and signed by Pigott on February 23 at Mr. Labouchere's house. I shall quote one passage from the confession:

'*Letters.*—The circumstances connected with the obtaining of the letters as I gave in evidence are not true. No one save myself was concerned in the transaction. I told Mr. Houston that I had discovered the letters in Paris, but I grieve to have to confess that I simply fabricated them, using genuine letters of Messrs. Parnell and Egan in copying certain words, phrases, and general character of the handwriting. I traced some words and phrases by putting the genuine letters against the window and placing the sheets on which I wrote over it. These genuine letters were the letters from Mr. Parnell, copies of which have been read in Court, and four or five letters from Mr. Egan which were also read in Court. I destroyed these letters after using them. Some of the signatures I traced in this manner, and some I wrote. I then wrote to Mr. Houston, telling him to come to Paris for the documents. I told him that they had been placed in a black bag with some old accounts, scraps of paper, and old newspapers. On his arrival I produced to him the letters, accounts, and scraps of paper. After a brief inspection he handed me a cheque in Court for 500*l.*, the price I had told him I had agreed to pay for them. At the same time he gave me 105*l.* in bank notes as my own commission.'

In the face of this confession the *Times* of course withdrew the facsimile letter, and the Commission found that it was a 'forgery.' The last scene in this squalid drama was enacted on March 5. A warrant

had been issued for Pigott's arrest on the charge of perjury. The police tracked him to an hotel in Madrid. 'Wait,' he said to the officers who showed him the warrant, 'until I go to my room for some things I want.' The officers waited; the report of a pistol was heard; there was a rush to Pigott's room; and the wretched man was found on the floor with a bullet through his brain. He had died by his own hand.

A few days before Pigott's death Russell received the following letter from Lord Coleridge:

March 3, 1889.

My dear Russell,—You need no longer the inspiration of which you spoke to me the other day; but I can't help writing you a line to congratulate you upon your part in the destruction of what I think you quite properly described as a foul conspiracy. You had splendid materials, and you used them with admirable skill and power. You heard, I believe, that from the very first I treated the letters with utter scorn, to which possibly my respect and admiration for Mr. Parnell contributed. I do not know him even by sight, so that my feeling is absolutely impersonal, and due only to what he has said and done. . . .

Yours very sincerely,

Coleridge.

When the Pigott crisis was over, I called on Russell. He was a new man. All traces of distress and anxiety had disappeared. He looked happy and joyous; but there was not a single note of triumph in his conversation about the unfortunate wretch whom he had destroyed. Indeed, he showed no desire to talk about the subject. Brushing it quickly aside, he took up some slips of paper which were lying on the table and said, 'Now I'll go over some of the heads of my speech for you.' This was

characteristic. Pigott was over and done with; Russell now applied himself to the next stage of the case. 'The beginning of all the trouble,' he said, 'was the depression of trade and the destruction of manufactures, and I mean to make this the starting point. When the manufactures were destroyed, the people were thrown upon the land. There was a bad land system—bad land laws were made by landlords in what they conceived to be their own interests; the people did not get a chance, and were driven to lawlessness and violence in self-defence. Now, my friend, does that line suit you?' He then went over several points, saying that it would be a mistake to 'dwell' upon historical topics. 'A great deal,' he said, 'can be done by just touching lightly on a subject, and leaving the impression that there is more behind. The facts must be passed rapidly in survey. By dwelling on remote historical topics I should simply invite the question, What has this to do with the case?'

'Well, I hope you will rub Cornewall Lewis into the Court, at all events.'

Russell: 'Certainly, but it is all the more necessary to touch lightly on the facts leading up to Cornewall Lewis. Cornewall Lewis is our *pièce de résistance.* If I can get the ear of the Court at the outset, if I am not pulled up at the start by the question, "What has this to do with the case?" I shall be all right and shall get Cornewall Lewis and every one else in.'

I said, 'Have you the slightest fear that you will be pulled up?'

Russell: 'Yes, every fear.'

I said, 'You astonish me; it is my opinion that you could get the Brehon laws in if you liked.'

Russell (laughing): 'And I have no doubt, my friend, but you would like me to get them in. Is there any part of Irish history which you would not like me to get in?'

I said, 'No part of the speech which you are going to make will remain but the historical part, and that is the reason it ought to be as complete as possible. Draw up an indictment against the English nation. Connect what is going on now with what has been going on all the time; let the world see that England is the real criminal.'

Russell: 'My friend, we must keep within bounds.'

We had many more talks over the historical part of the speech. He did not object because I tried to get as much history as possible into the speech, but he pointed out the danger of 'overloading.' He listened with patience to everything, read everything, accepted all suggestions which related to the collection of information, was ever ready to weigh an argument or take in an idea, sympathised with your point of view, even when he did not agree with you; but he resolutely took his own line in the selection and arrangement of the materials, and shaped his own course in his own fashion with characteristic independence and originality.

There was no difficulty in showing that there had been a land war in Ireland for a century and a half, nor in citing even English authorities to prove that injustice and oppression had been the cause. But as boycotting had been the great weapon of the Land League, Russell was particularly anxious to have some instances of boycotting in the past, and he was much pleased when I satisfied him that boycotting was a feature in the tithe war fifty years ago. He read the story of the tithe war with interest—though, except for the purpose of showing

that boycotting was not the invention of the Land League, he could not make much use of it in his speech. 'Not one Englishman in twenty,' he said, 'has ever heard of the tithe war. Their ignorance of our case increases the difficulties of a settlement.'

'They know nothing about us,' I said. 'They don't know how to govern us, and they won't let us govern ourselves.'

Russell: 'Because they are afraid that we will use the power against themselves.'

I said, 'It is hard to know what they are afraid of, or what they are not afraid of. They are always saying that we will use any power that they give us against them; and yet they are always giving us additional powers.'

Russell: 'Well, my friend, it is our duty to remove their fears.'

I said, 'They never give us anything, unless under the pressure of fear.'

Russell: 'Still harping on my daughter.'

We talked about agrarianism in Kerry and elsewhere. I said that I thought it was a waste of time to speak to that part of the case at all.

Russell: 'What do you mean?'

I said, 'Roughly speaking, it is nearly all true. The League has been lawless and violent all the time: that is the simple truth. In fact, we are all lawless or in sympathy with lawlessness.'

Russell: 'Speak for yourself, my friend.'

I said, 'Let me tell you a story. I was walking along the Strand one day with —— (naming a distinguished Irishman who had held high office in the Colonies); we saw a newspaper placard with the words

"Riot in Ireland; collision between peasants and police; six policemen seriously wounded." "Thank God," said ——, "that it is not the peasants who are seriously wounded."'

'That's lawlessness, or sympathy with lawlessness at all events. Bad laws must produce lawlessness. I should like to tell the Commission that the League was lawless, and that it succeeded because it was lawless.'

At this juncture one of the counsel in the case came into the room, and looked at me with a superior air. Russell, catching the expression, said with a faintly humorous smile, 'Here is Barry O'Brien telling me that we are acting like a pair of fools in our conduct of this case.'

The counsel looked surprised and angry, and the humorous smile on Russell's face deepened. I said, 'I never used these words, Sir Charles.'

Russell: 'No, my friend, but that is what you meant.'

The counsel said haughtily that he did not quite understand. 'Well,' said Russell, rather amused at the offended dignity of his friend who had *not* a grip of the historical part of the case, 'I will explain'; and he then put the points briefly and forcibly, showing how completely he had considered and grasped every aspect of the question.

We discussed the Fenian element. I said that the *Times* was in the main right about the relations between the Fenians and the Leaguers; that, in fact, Fenians or ex-Fenians were all-powerful with the League.

Russell: 'You forget the point, my friend. The case of the *Times* is that the Land League aimed at the separation of Ireland from England.'

'They have not proved that,' I said; 'yes, that is the

weakness of the *Times* case. The Land League was not a separatist movement.'

Russell: 'Just so.'

'But it was bossed by separatists.'

Russell: 'I deny that.'

'Well, Davitt founded the Land League. Davitt was a Fenian, and was one of the greatest forces in the organisation.'

Russell: 'And was expelled from the Fenian organisation because he joined the constitutional movement, and several other Fenians were expelled for the same reason.'

I said, 'Yes, that is the strength of your case; but then it is not quite so strong as you think; for those expelled Fenians hated England quite as much as the orthodox Fenians.'

Russell: 'Develop your argument, my friend.'

I said, 'Those expelled Fenians believed that the best way to hit England was to combine with the constitutionalists. The orthodox Fenians, on the other hand, looked upon these tactics (1) as dishonest and (2) as foolish. They said that the result of this combination would be in the long run to weaken Fenianism.'

Russell: 'And I think they were right.'

I said, 'Yes; but your case is that every expelled Fenian is an honest convert to constitutionalism. He is nothing of the kind. Paddy Egan, a "convert," hates England as much as John O'Leary, who is disgustingly orthodox.'

Russell: 'I say nothing about that; but it is a distinct gain that certain Fenians have been drawn out of Fenianism, and have come to believe in the constitutional movement.'

I said, 'Yes, because they believed that the constitutional movement can be turned to separatist purposes; that's the point, as you say yourself.'

Russell: 'Well, but do they believe it? You say so. Is it true?'

I said, 'What will you do with John Devoy and the Clan-na-Gael? They are not even ostensibly "converts"; they are avowedly working with the constitutionalists for separatist purposes.'

Russell: 'I think, my friend, we are wandering from the point. The specific charge is that the Land League was a separatist movement; and even you, who are an *advocatus diaboli*, admit that it was not.'

I said, 'I think that neither you nor the *Times* is right. The *Times* wants to make out that the League was Fenianism pure and simple from beginning to end, and you want to make out that it was constitutionalism pure and simple from beginning to end. You are both wrong. It was constitutionalism *plus* Fenianism or Neo-Fenianism.'

Russell: 'What do you mean by Neo-Fenianism?'

'The "new departure" of John Devoy, the combination of constitutionalism and Fenianism for separatist purposes.'

Russell: 'Your whole interest in the case seems to be to show that Fenianism was a force.'

I replied, 'Certainly; it is the truth. I do not think that the Land League could have become the powerful organisation it was but for Fenian support. Of course, the success of the whole movement is due to the skill with which Parnell has used Fenianism, and Land Leagueism, and every "ism" against England. And yet

I suppose we are to consider him a loyal and constitutional agitator?'

Russell: 'Now, off you go!'

I said, 'One word before I go.'

Russell: 'Well?'

'The *Times* case against the League—which is a paltry issue—is a good case: Ireland's case against England—which is *the* issue—is overwhelming. Drive it home.'

Russell: 'Off you go!'

A few days before Russell began his speech, he had a consultation with his colleagues at Tadworth Court. One of them discussed the subject of agrarian outrages in Kerry and similar topics. 'I am surprised,' said Russell, 'to hear you discussing the question on those lines. We must take a broad view of this case'; and a broad view he did take in one of the most remarkable speeches ever made in an English Court of justice.

The opening paragraph was, I thought, perfect:

My Lords, the sittings of this Commission—this unique Commission—have, up to to-day, reached the number of 63. There have been called before your Lordships in the course of this inquiry some 340 odd witnesses. There have been called, amongst others, 16 district inspectors of the Royal Irish Constabulary Force; 98 members of a subordinate kind belonging to that force; a number of landlords and agents; 18 informers, including some convicts; one Irish priest, one only of the class in the Irish community best acquainted with the circumstances and the feelings of that community, and best able to inform your Lordships as to their circumstances and as to their condition. There have been also called five expert witnesses—experts on

the question of handwriting—Captain O'Shea, the informer Delaney, and I am afraid I must add Mr. Soames and Mr. MacDonald; and the fifth, Mr. Inglis, called and sworn, but fortunately for Mr. Inglis's reputation not examined.

With the *Times* attack on Lord Mulgrave, to which I have already referred, he dealt thus:

I have pointed out who the accused here are. Who are the accusers? The accusers are a company or a co-partnership, or a syndicate, I know not which, called by the public in ordinary parlance *The Times*, who, if they have been consistent in nothing else, have been consistent in their unrelenting, unvarying hostility to the Irish people, and the cause of the Irish people.

It is now a good many years ago, but the incident is an instructive one, when *The Times*, during the Lord-Lieutenancy of Lord Mulgrave, put into its columns these words: 'It has been proved beyond a doubt that Lord Mulgrave has actually invited to dinner that rancorous and foul-mouthed ruffian, O'Connell.'

We have here in these words the keynote to the misgovernment of Ireland. It is the fashion nowadays to praise O'Connell, and a distinguished Minister of the day, indeed the principal Irish Minister, has gone the length of claiming O'Connell as a supporter of his policy! But what did the writer mean when he made that complaint against Lord Mulgrave? Lord Mulgrave was the Queen's Lord-Lieutenant in Ireland, charged with the duty of the government of that country, bound—if indeed it be true that Governments exist for the good of the people and not for the benefit of the governors—to consult, by the best and every means in his power, the interests, and to regard the wishes, of the people over whom he ruled, and yet it is made in the columns of this paper a charge and indictment against him that he has sought companionship with, has sought counsel with, has

sought to get some touch-point, and means of contact with popular opinion and feeling in Ireland. It is this want to which I shall have again and again to refer in the course of this case; it is this absence of contact with the people, with the representatives of the people, absence of the means of knowledge of their wants and of their wishes, that has been one of the grievous disasters in Ireland's government in the past—ay, and in the present day.

To the last he feared that the Court would stop him when he came to the historical part of the speech, and he led up to the subject in the following cautious and skilful manner:

My Lords, the causes of the difficulties in Ireland in 1879 are deep down in the history of Ireland; and do not let it be said, if I trouble your Lordships, not at great length, with a retrospective history, that I am only raking up musty ancient records. In order to understand the feelings, motives, and springs of action of nations and of individual men, and the leading citizens in a nation, you cannot avoid looking back to the earlier history of the country. As well might one attempt to understand the genius of the English people and of English institutions without reference to the Revolution and the Bill of Rights, and the Reform Bill and Free Trade; as well might one endeavour to understand the position of Frenchmen and the views of the French people without reference to its great Revolution and the history of its earlier and its later Empire, as to endeavour to understand the position of the Irish question without reference to its earlier history and the economical and the social causes which have brought about the condition of things in Ireland, which has been the fruitful cause of disturbance and of crime.

In any case this would have been a task which I should have desired to undertake. From the mode

in which the case has been presented by the Attorney-General, even if I were minded to avoid it, I could not avoid it. The Attorney-General has thrown down the challenge, I must take it up. What was his opening? So far as his view is concerned, Ireland might as well have been dropped from the firmament, starting on a new career in the year 1879; so far as his opening is concerned, Ireland was a modern Arcadia, a kind of Garden of Eden, before the intrusion of the serpent, a country in which happy patriarchal relations existed between the Irish tenant class and the landlords, the landlords looking down with parental regard upon the interests and the condition of their tenants, the tenants looking up with eyes of reverential gratitude to their friends and protectors, the landlords! The Attorney-General said that there had sprung up in Ireland from and after 1879, to the disgrace of the country and the character of its people, crimes unknown before. Previously crime had not followed evictions; no such thing as land-grabbing was heard of; no such thing as denunciation of land-grabbing; no such thing as interference by external pressure with the payment of unjust rents; no objection taken to the man who tenanted an evicted farm; no evil consequences followed to him. There were indeed, said the Attorney-General, occasional murders of landlords, but the character of recent crime in Ireland from 1879 had been, not the murders of landlords, but the hopeless grinding tyranny of helpless tenants. That picture is utterly, absolutely, historically false!

The very same things that happened from 1879 to 1883 have happened in former times in Ireland, as I shall show you, but in a much greater degree (God be thanked for the improvement). I shall show you that from the same causes the same results in greater volume have flowed; and if this be established, if I shall prove that by facts and figures, then I shall go far to establish that the

sitting. I assure you my blood ran cold, and a thrill went through the whole Court. Again, when he said, "I speak for the land of my birth," his voice quite failed, and I saw him put his hand to his eyes and wipe away the tears.'

A less dispassionate listener wrote :

'I have just returned from the Court after hearing the end of "the speech," and my heart is so full I can hardly speak or write ; but I should like to tell you something about it if I could. I feel that I can never thank God enough that I have lived to see this day. —— has had a fearful task to accomplish, and he has done it well and nobly. *No one but himself could have done it*, and I believe he has raised the Irish cause to a position which it never before held in the eyes of the people of England. I could not describe to you the scene in Court this morning. Every nook and corner was packed with people, and every one listened in breathless silence. It was known that he would wind up this morning, so that there was more than usual interest displayed, though all along it has been very great. I shall not describe the speech itself to you : you will read it. But I wish you could have seen him as he spoke—how noble, how handsome he looked. He did indeed seem as if inspired. God bless him!'

When Russell resumed his seat the President sent him a slip of paper with the words—'Dear Russell,—A great speech, worthy of a great occasion.—J. H.'

Lord Rosebery wrote to him, 'You have at a bound passed from solid reputation to supreme eminence.'

Cardinal Manning : 'What I thought was the chief excellence of your defence is this : you lifted the whole

subject to the level of a great national and historical cause.' Lord Coleridge: 'It is not often that a man, while raising his own reputation to the highest point, can also do a great and good work for his country. This has been your good fortune.'

But the warmest letter of congratulation generously came from Lord Randolph Churchill: 'I must add my small voice to the great chorus of applause. I have read it almost every word, and have learnt much, and shall certainly learn more when I re-read it. Never has the case of Ireland and England been presented with such inexpressibly consummate skill, or with such overwhelming force. Whatever may be the ultimate effects upon persons or parties, nothing but good can result from a wide diffusion of the "oration." I dare say that, illuminated by its spirit, we shall escape before long from the desolate discussion of all the petty details of Irish administration to the study of those immeasurably greater and broader issues which you raised in such a manner that they can be no more repressed. While in great part your speech is history, it will also make history, and must be estimated by all but the blinded partisans as a momentous contribution to an old-world quarrel. I feel I can write this without being liable to the suspicion that I have at all modified my opinions on "Repeal," and it is a pleasure to me to offer my humble tribute of admiration to one who, though a political opponent, I like to think I may regard as a friend.'

After Russell's speech almost all interest in the case evaporated, though it must be said that Sir Henry James's summing up on behalf of the *Times* was a masterly display of forensic argument and eloquence.

In February 1890 the Commissioners made their report. On some points they found for the *Times*, and on some for the Irish members; but on the main issue—the forged letter—the great journal was of course routed all along the line.[1]

When victory was assured, Parnell wrote to Russell:

DEAR SIR CHARLES RUSSELL,—

. . . . . .

Permit me to thank you and Mr. Asquith most warmly and gratefully for the devotion you have shown, during the long and wearisome period, to my interests and the case generally. I shall always remember with affection and admiration your splendid vindication of our motives and actions, and of the movement with which we were identified during a most trying period of Irish history.

I am, dear Sir Charles Russell,
Sincerely yours,
CHAS. S. PARNELL.[2]

[1] A summary of the findings will be found in the Appendix.

[2] Russell's fees in the Parnell Commission amounted to 3,300*l.* This sum is not included in the amount, given elsewhere, of Russell's fees for the year 1889.

CHAPTER XIII

THE MAYBRICK CASE: BEHRING SEA ARBITRATION

To dwell on any of Russell's cases after the Parnell Commission would be an anti-climax. Therefore I shall pass lightly over them. The one which at the time excited most interest was his defence of Mrs. Maybrick.

In the summer of 1889 Mrs. Maybrick was indicted at Liverpool for the murder of her husband (by 'arsenical poisoning'), convicted, and sentenced to death. The capital sentence was immediately commuted to penal servitude for life. For Russell's biographer the interest in the case is the characteristic persistency with which he assailed Home Secretary after Home Secretary, seeking, as it were, to carry his former client's freedom by storming the positions of those who kept the key of her prison house.

Immediately after the trial he wrote to Mr. Matthews, then Home Secretary:

> I am sorry to say it will be necessary for you to consider this case. Against her there was a strong case, undoubtedly, of the means being within her reach to poison her husband; but there was no direct evidence of administration by her. But further: but a small quantity of arsenic was discovered in the body after death, and *none* in the stomach, bile, heart, spleen, &c.

The symptoms, all were agreed, were those of gastro-enteritis; but while witnesses for the prosecution attributed it to arsenical poison, a very strong body of evidence was given for the defence that it was not so. . . .

In November 1895 he wrote to Sir Matthew White Ridley, conveying his 'strong and emphatic opinion that Florence Maybrick ought never to have been convicted, and that her continued imprisonment is an injustice which ought promptly to be ended.'

I have never wavered in this opinion. After her conviction I wrote and had printed a memorandum which is, I presume, preserved at the Home Office. Lest it should not be, I herewith transmit a copy. . . .

As you know, what happened was that Mr. Matthews, after consultation with the present Lord Chancellor (Lord Halsbury) and Mr. Justice Stephen, and after seeing Dr. Stephenson, the principal Crown witness, and also the late Dr. Tidy, respited the capital sentence on the express ground that there was sufficient doubt whether the death had been caused by arsenical poisoning to justify the respite, and that he ordered Florence Maybrick to be kept in penal servitude for life on the ground 'that the evidence led to the conclusion that the prisoner administered arsenic, and attempted to administer arsenic, to the deceased with intent to murder him.'

It will thus be seen (1) that such a doubt existed as to the commission of the offence for which Florence Maybrick was tried as rendered it improper, in the opinion of the Home Secretary and his advisers, that the capital sentence should be carried out, and (2) that for more than six years Florence Maybrick has been suffering imprisonment on the assumption of Mr. Matthews that she committed an offence for which she was never tried by the constitutional authority, and of which she has never been adjudged guilty.

This is itself a most serious state of things. It is manifestly unjust that Florence Maybrick should suffer for a crime in regard to which she has never been called upon to answer before any lawful tribunal. Is it not obvious that, if the attempt to murder had been the offence for which she was arraigned, the course of the defence would have been different?

I speak as her counsel of what I know. Read the report of the defence and you will see that I devoted my whole strength to, and massed the evidence upon, the point that the prosecution had misconceived the facts; that the foundation on which the whole case rested was rotten, *for that in fact there was no murder*; that, on the contrary, the deceased had died from natural causes.

It is true that incidental reference was made to certain alleged acts of Florence Maybrick, but the references were incidental only, the stress of my argument being that in fact no murder had been committed, because the evidence did not warrant the conclusion that the deceased had died from arsenical poisoning.

On the other hand, had the Crown counsel suggested the case of attempt to murder by poison, it would have been the duty of counsel to address himself directly and mainly to the alleged circumstances which, it was argued, pointed to guilty intent. That these alleged circumstances were capable in part of being explained, in part of being minimised, and in part of being attacked as unreliably vouched, cannot, I think, be doubted by any one who has with a critical eye scanned the evidence. . . .

I do not deny that my feelings are engaged in this case. It is impossible they should not be. But I have honestly tried to judge the case, and I now say that, if called upon to advise in my character of Head of the Criminal Judicature of this country, I should advise you that Florence Maybrick ought to be allowed to go free.

In 1898 he returned to the subject, writing still more strongly to the Home Secretary:

I think it my duty to renew my protest against the continued imprisonment of Florence Maybrick. I consider the history of this case reflects discredit on the administration of the criminal law. . . . I think my protest ought to be attended to at last. The prisoner has already undergone imprisonment for a period four times [or more] as long as the minimum punishment fixed by law for the commission of the crime of which she has never been convicted, or for which, indeed, she has never been tried, but of which she has been adjudged guilty by your predecessor in the office of Home Secretary.

In the very year of his death he made a fresh protest, and on February 6, 1900, wrote a letter to the Home Secretary, from which I take the following extract:

I beg to thank you for your letter of the 3rd instant, which greatly distressed me. I saw the wretched woman last week while at Aylesbury, looking wretched, although I believe she is not ill in the ordinary sense. I understand your view, but is it the right one?

You say you regard her as a properly convicted murderer undergoing a commuted sentence. Is this so? Your predecessor, Llandaff, *after inquiry*, in which the Lord Chancellor and the Government Chemist assisted, *publicly stated* that there was room for doubt whether any murder at all had been committed; but that he came to the conclusion that the accused had *attempted* to commit murder.

Nor was this view—that perhaps the man had not died of poison—other than most reasonable, because the quantity of poison revealed on analysis was infinitesimal, and such as might well have been accounted for by the notorious arsenic-eating habits of the man. The evidence of Sir James Poole, sometime Mayor of Liverpool, established this; and it is one of the faults of the summing up that the judge failed to give due weight to

this entirely reliable evidence. Nor did this evidence stand alone; it was strongly confirmed by that of a local chemist who had for years been in the habit of supplying the deceased with arsenical drinks. . . .

And so, to the end, the fate of this unhappy woman occupied his thoughts, and he never ceased, either in private or officially, as the opportunity occurred, to say that there had been a grave miscarriage of justice in the case, and that Florence Maybrick 'ought to be allowed to go free.'

In 1890 he came forward, on the invitation of the Edinburgh University Liberal Association, as Liberal candidate in the Rectorial election against Mr. Goschen. He was, of course, beaten. Indeed, he stood, not in the hope of winning, but of encouraging the Liberal minority. After the election he wrote to his friends:

I wish to convey through you my thanks to the 805 gentlemen who supported my candidature for the Lord Rectorship of the University of Edinburgh. Although advised that my chances of success were not great, I could not refuse the honour of being put in nomination by the unanimous vote of the Committee of the University Liberal Association. I thought it a hopeful sign of the times, a remarkable indication of the progress of tolerant opinion, that a Catholic and an Irishman should be, by an important section of the students, asked to assume so high an office in so distinguished a Protestant Scotch University.

A year later he cross-examined a witness with much severity, in a case of great public interest, and it turned out that he had been misled by his instructions. Afterwards he was censured by an anonymous writer in the

press for the line he took. Writing on the subject to the judge who tried the case, he said:

For myself I say that I never attacked a witness in any serious fashion without pain and reluctance, unless I had the strongest conviction he was lying, and I believe this also to be true of every member of the Bar. Carried away by belief in one's cause we are all liable to err, and I have no doubt I have in consequence committed many errors of judgment; but looking upon thirty years retrospect in the profession I can recall only three occasions in which the judge thought I had been, without adequate cause, harsh to the witness. They were remarkable cases. In two of the cases the judges were Field[1] and Bacon,[2] neither of whom said anything, but I felt they were annoyed at the line I took. In the third case,[3] Cockburn, C.J., did in terms reprehend my cross-examination; but, before the case was over, stated in Court that the cross-examination was justified on a fuller knowledge of the facts. In all the cases the result of the verdict, of which the judges approved, justified me.

The judge in reply said:

I felt certain, even before you told me, that you had done everything that was possible beforehand to ascertain that you had an honest case. I still think that the case was nobly conducted, *especially* by you, because yours was the most difficult to conduct without going astray.

In 1892 there was a General Election. The Tories were beaten and Mr. Gladstone became for the fourth

[1] Wilberforce *v.* Philp.
[2] This was, I think, the case to which I referred at p. 193.
[3] Wybrow Robertson *v.* Labouchere.

time Prime Minister. Russell was again made Attorney-General. During his term of office he appeared in one case of international importance, the Behring Sea Arbitration. It was a trifling issue, but the consequences might have been grave. The facts, briefly, were: In the breeding season the seals in the Behring Sea settled on islands—American territory—off the coast of Alaska. When the breeding season was over, they swam away to the ocean. The American Government leased the sealing on the islands to an American Company. But the seals in swimming oceanwards were captured off the coast of Canada by Canadian fishermen. The American Company protested against these captures as an infringement of their rights. The American Government took up their quarrel, and seized the Canadian fishing vessels. Canada appealed to England, and England took up *her* quarrel. The American case, in a word, was that the seals in the Behring Sea were, practically, domesticated animals, and were entitled to the protection of the Government of the United States; and that, in addition, America had the exclusive right of fishing in the Behring Sea. The English case was (1) that the seals were *ferœ naturæ*, liable to be captured anywhere, outside territorial waters, by any one, and (2) that the right of fishing in the Behring Sea was open to the world. The question was ultimately left to arbitration. The arbitrators, selected from some of the principal countries of Europe, as well as from England and the United States, and presided over by a Frenchman—Baron de Courcel—met in Paris and decided (1) that the seals were *ferœ naturæ*, and that the United States had not the exclusive right to fishing in the Behring Sea;

(2) that in future regulations should be made for seal fishing [a point which England never disputed].

So it will be seen that the award was a victory for England, and for Charles Russell who pleaded the cause of England.

He spoke for eleven days in opening the English case. I give the peroration:

My friend Mr. Carter, in his impressive opening, well said that this submission to arbitration was a great fact. Mr. President, it is a great fact—a fact of weighty moral significance.

There are two Great Powers before you: one a representative of the civilisation of the old world, great in its extent of dominion, greater still in its long, enduring traditions of well-ordered liberty, and in the stability of its ancient institutions; the other a young but stalwart member of the family of nations, great also in its extent of territory, in the almost boundless resources at its command, great too in the genius and enterprise of its people, possessing enormous potentialities for good on the future of the human race. These Powers are in difference. Great Britain conceives that she has been wronged by these seizures, and, we submit, justly so conceives that her sovereignty has been invaded; her rights upon the high sea, represented by her nationals, set at nought. Happily, the dread extremity of war was avoided. These nations have not sought to turn their plough-shares into swords to settle their differences; they are here before you as friendly litigants; peaceful suitors in your Court, asking by pacific means the adjustment and the determination of their rights in times of peace. This is, indeed, a fact of great moral significance. 'Peace hath her victories no less renown'd than War.'

This arbitration is—who will gainsay it? who can

gainsay it?—a victory for peace. Will your award be a victory for peace? You, gentlemen of this tribunal, alone can answer.

It will be, it must be, a victory for peace if, as I cannot permit myself to doubt, it conform to, and leave untouched and undoubted, the principles of that law which has been consecrated by long usage and stamped with the approval of generations of men; that law which has, after all, grown up in response to that cry of humanity heard through all time, a cry sometimes inarticulate, sometimes drowned by the discordant voices of passion, pride, ambition, but still a cry, a prayerful cry, that has gone up through all ages for peace on earth and goodwill amongst men.

President: 'Sir Charles, we have to thank you for the great pains you have taken in making clear the very intricate questions brought before us for decision. You have reaped so much applause in the course of your profession as a lawyer and far-famed speaker, that what I might add would be but of small purport. I will merely say that the vigour and incisiveness of your argument have been fully appreciated.

'We feel that England has done honour to this tribunal when she chose as her counsel in this memorable case one of her ablest and most powerful legal debaters.'

This was the last great case in which Russell appeared at the Bar, and the Government of the day marked its appreciation of his services by conferring upon him the Grand Companionship of St. Michael and St. George.

The record of his fees during his last seven years may be given:—1887, 16,651*l.*; 1888, 14,028*l.*; 1889,

17,913*l.*; 1890, 16,077*l.*; 1891, 13,783*l.*; 1892, 15,299*l.*; 1893, 22,517*l.*; 1894 (to April), 10,309*l.*

An effort had been made by Mr. Gladstone to throw open the Chancellorship to him by altering the law which excluded Catholics from that office, but it failed. In May 1894, however, he succeeded Lord Bowen as a Lord of Appeal, and was raised to the life peerage as Lord Russell of Killowen. On the day of his 'introduction' to the House of Lords he wrote to Lady Russell:

House of Lords, Tuesday.

My dear Wife,—I was after all rather sorry I did not countenance your coming to the 'introduction'—a lot of my friends from the Commons did. It went off all right. We were in gorgeous raiment, and the Garter King is a sight to see—to say nothing of the Chamberlain and the Hereditary Earl Marshal, the Duke of Norfolk. I should have been down last night, but I had to-day to sit to decide my first case as Lord of Appeal. I said nothing, but looked very wise, and I did in fact understand the case thoroughly.

I think I shall find the work fairly interesting. Let the trap (if it is not raining), please, meet the 10 o'clock train from Waterloo. Love to all.

My dear Wife,
Yours always,
Russell of Killowen.

In reply to a letter of congratulation from Mr. (now Sir Edward) Russell, he wrote:

My distinguished Friend and Namesake,—Your letter, I need not say, gratified my wife, and, I need not say, gratified me greatly. You have always been most kind and over-generous to me. You will readily understand that the severance from active political life, from

the Commons, and from the contests of the Bar has been a wrench; but I felt that if ever I was to undertake judicial work I ought to begin when I could truly say that I still possessed such capacity as God had given me, and have, above all, at once the energy and the will to learn.

My dear friend, ever yours truly,

C. Russell.

About the same time he wrote to his brother, Father Russell:

My dear Matthew,—Your letter is, as you have always been to me, kind, generous, indulgent.

The determining point in my acceptance of my new position was this, that a time must soon come when I could not continue working, as I have done for years, at high pressure; and I felt that, if ever I were to undertake a judicial post, I ought to bring to it such capacity and energy as God has given me, unimpaired. I need not say I have some keen regrets. . . .

My dear Matthew, your affectionate brother

(still unpatented),

C. Russell.

An old friend in Belfast, one whom he had known in the days of the *Ulsterman*, wrote to congratulate him. Russell replied:

Dear Mr. M'Lorinan,—You are one of my very oldest living friends, and I value all the more on that account your kind letter.

Faithfully yours,

C. Russell.

But many of his friends were disappointed. I called on him shortly after his promotion, and expressed what

I thought was the general dissatisfaction. He laughed and said, 'It is not so bad as you think.'

A month afterwards Lord Coleridge died, and Russell became Lord Chief Justice of England.

Early in 1895 Mr. Gladstone wrote to him:

I have never got over my wrath at the failure of our effort to repeal the unjust and now ridiculous law which kept the highest office in your profession out of your reach. It is, however, some consolation to reflect that you are on a throne only a little less elevated, and very far more secure. From that seat I hope you will for a long time continue to dispense justice in health, prosperity, and renown.

In bringing the story of Russell's career at the Bar to an end, I shall publish the following appreciation of him for which I am indebted to the courtesy of Lord James of Hereford:

'I find some difficulty in complying with the request that has been made to me to record my judgment upon Lord Russell of Killowen's qualities as an advocate.

'I saw but little of him in his early days. Those were for the most part spent on the Northern Circuit and in local practice in Lancashire. But I became fully acquainted with his great powers when in January 1874 he appeared as counsel in support of a petition against my return for the borough of Taunton in the previous October. Being the person whom he had to attack, I was not in a position to form an impartial judgment upon his methods of advocacy upon that occasion. But I fully recognised the great ability he displayed, and he certainly did not fail in the zeal he evidenced in

support of his client's interests. From that time as his practice increased we often met in forensic contest, and during the later years of our careers at the Bar we were frequently engaged in hard-fought encounters.

'If I draw comparisons between Charles Russell's powers and those of the numerous advocates with whom I was associated during my professional life, it is necessary to refer to the qualities he possessed. He was an Irishman and was endowed with the mental elasticity of the Irish race. He was a northern Irishman and was not deficient in the fixed determination of purpose which so often characterises the dwellers in Ulster. He was brilliant in his power of expression, and at the same time was most industrious in thinking out what ought to be expressed. In the preparation of his cases he never spared himself. Although he thoroughly enjoyed many of the pleasures of life, he ever made the duties of his profession his first care, and never, as far as I know, was wanting in that full knowledge of details without which the most powerful advocate must be at fault. These qualities produced in him a combination of mental efficiency which rendered him a great advocate—great in all the phases which pertain to advocacy. He could fully deal with questions of law, his power of cross-examination was of the highest, and his speeches were full of eloquence combined with subtle reasoning. But there was one characteristic which helped Lord Russell more than these great qualities to obtain the high position he secured at the Bar. That was his immense determination. He never would consent to be beaten, and in fact never was beaten until the Court was adjourned. He was always confident that he could gain

his verdict and seemed to insist upon doing so. If one point failed him another was immediately presented, and it required all the powers of a strong judge to repel the repeated appeals made to him. I recollect certainly two occasions when I had endorsed my brief with a judgment given in my client's favour, which I had to change into a contrary finding through the pertinacious refusal of Charles Russell to accept the first decision; and thus it was I found him the hardest man to beat I have ever been opposed to at the Bar.

'Either as a junior or as a contemporary I have been associated with Cockburn, Thesiger, Kelly, Mellish, Coleridge, Karslake, Giffard, Hawkins, Holker, and of course many others. I cannot say that Russell was the equal to all these men in every particular quality. Cockburn's eloquence has been unrivalled by any advocate of our time; Kelly was a most subtle reasoner; Mellish was a consummate lawyer, and Lord Brampton possessed the highest power of acute cross-examination. But I doubt if any of these men possessed such a combination of the principal qualities which avail an advocate as was given to Charles Russell, for in respect to none of them was he deficient. Like every advocate he preferred to conduct a winning case rather than one which promised defeat, and I believe he was apt to point out to his client any deficiency in his case in very distinct language. But the battle once joined, his moral courage was as a very armour to him. There was no flinching, and he never willingly consented to retreat.

'I recollect, however, his once giving way, probably from the desire that right should be done. He was about to open a case of libel in which his client, a

financial agent, complained of an attack that had been made upon him in a newspaper, for the proprietor of which I appeared. My task was to show that the plaintiff was an adventurer. As we sat waiting for the case to commence, I asked Russell if he would tell me what was the meaning of the letters F.R.A.S. which had constantly appeared after his client's name in different documents. The inquiry was made from his client, and upon the answer being obtained I heard some very strong language being employed. As I had been instructed, F.R.A.S. represented Fellow of the Royal Aquarium Society, a fellowship which I believe could be purchased in the open market for a few shillings. The action was not tried.

'But this is a trivial digression which perhaps ought to have been avoided. I could write much of the incidents of the cases we were engaged in, especially of the Parnell inquiry, which afforded probably as great an opportunity for advocacy as ever man enjoyed. But such is not the task allotted to me. I have been asked to record the high estimation in which I held the powers of a most able and powerful advocate, without touching on the great qualities affecting other phases of his life; and I trust that I have succeeded.

'James of Hereford.'

CHAPTER XIV

LORD CHIEF JUSTICE

It has sometimes been said that a great advocate seldom makes a good judge. If this be the rule—and I express no opinion on the point—Russell was a notable exception. In five short years he made a reputation on the Bench which almost overshadowed his reputation at the Bar. He was strong, just, painstaking, and expeditious. 'He was,' says one of his colleagues, 'popular on the Bench. He was patient and considerate; now and then he would burst out like the old Russell, but that was very seldom. As a rule he kept his temper under perfect control.'

'It is a great loss to the country and to the race of Chief Justices,' says another colleague, 'that he was cut off so early in his career on the Bench. His reputation was growing every day, and another five years would have made a great difference in his permanent position in history.' And yet, as it is, he has made a mark in English judicature which will not soon be effaced. 'One great quality,' says an eminent member of the Bar, 'distinguished Russell as a judge; he always went straight for the bull's-eye of truth. If he were occasionally arbitrary or impatient, it was owing to his desire to get quickly through the business. No man could be more

attentive. A judge will sometimes loll in his chair, he will sometimes even read a newspaper—a most insulting proceeding—when you are addressing the jury. There was nothing of that about Russell. He gave his whole mind to the case, and to every one in the case. At the Bar he would ride rough-shod over an opponent. On the Bench he always considered your feelings. I think he was greater as a judge than as an advocate.'

Among the subjects which engaged Russell's attention, after his elevation to the Bench, the question of legal education held a foremost place. Russell was a born reformer, and, no matter what position he might find himself in, he was sure to promote measures of progress. At the suggestion of Lord Justice Lindley, and with, I think, the co-operation of Mr. Montague Crackanthorpe, K.C.—who (as Montague Cookson) had won the studentship for which Russell again competed in the examination of 1859—he delivered an address on 'Legal Education' at Lincoln's Inn Hall in October 1895.

At the outset he briefly reviewed the history of the question. In 1832 the charter of the Incorporated Law Society was obtained, and in 1836 the body of solicitors decided that a satisfactory public examination should be a condition precedent to admission as a solicitor. In 1833 some of the Inns of Court appointed Readers or Lecturers in law, but the students at Lincoln's Inn could not attend the lectures at the Temple, nor Temple students the lectures at Lincoln's Inn. There was no concert between the Inns, and therefore no system of education as a whole. In 1846 a Committee of the House of Commons condemned this state of things, and

in 1852 a standing Council of eight Benchers, representing all the Inns, was formed to frame a scheme of lectures open to the members of each of the Inns. This standing Council was the germ of the Council of legal education. Subsequently five Readerships were instituted, viz. in jurisprudence and Roman law, real property, common law, equity, and in constitutional law and legal history. It was under this *régime* that Russell himself made his way to the Bar. There was, however, as yet, no guarantee of competent legal learning as a preliminary to call. In 1855 a Royal Commission was appointed to inquire into the subject. This Commission, like the Committee of 1846, condemned the existing state of things, and recommended (1) the necessity of a preliminary examination before admission as a student, and of another examination before call, and (2) the formation of the Inns of Court into a legal university with power to confer degrees in law, the necessary funds for carrying out the scheme to be provided by the Inns of Court. In 1872 the recommendations of this Commission were acted upon to the extent that the preliminary examination (for admission as students) was adopted. In 1877 a bill for the establishment of a law school was introduced by Lord Selborne, and read a second time in the House of Lords; but it never became law. 'All these events,' said Russell, 'passed lightly over the heads of the Benchers, and [though some regulations of importance were adopted and an official examination before call was made compulsory] we are still far off a system of legal training worthy of the name.' Russell then developed his own scheme.

My proposition is that a royal charter should be obtained to establish a school of law, to be called, say, the 'Inns of Court School of Law.' The scroll or governing body should consist of, say, thirty members—ten to be nominated by the Inns of Court, ten by the Crown, one each by the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, one each by the four Universities of Oxford, Cambridge, London, and Victoria, and three by the Incorporated Law Society. These figures are merely suggestions. Personally I should desire to have some of the governing body elected by the free voice of the profession as a whole. I should not limit the representatives of the Inns of Court or of the Incorporated Law Society to members of their own bodies respectively. In this way, coupled with the nominating power of the Crown and of the Universities, security would be had against that narrowness which, in spite of ourselves, has a tendency to creep into purely professional associations. I attach importance to the Universities being directly represented on the governing body, because (amongst other reasons) it would render it easier, and with safety, to determine what degrees and what testamurs might properly be accepted in the case of University students and graduates, and it would tend towards establishing that connection of legal education with University training which, with advantage, largely prevails in other countries, but is almost wholly wanting in our own. I should confer on such a body the power of granting academic distinctions, and I should commit to it in fullest confidence the settling of a scheme of preliminary examination, of systematic instruction, and of final tests of fitness for the profession of the law. A difference would, no doubt, have to be made between Bar students and others. But that is a matter of detail. I think such a scheme, well considered in all its parts, ought to receive the sanction of the Inns of Court, and would receive the warm support of the profession gene-

rally. It continues the name of the Inns of Court—as it ought to be continued—in connection with the cause of legal education. The new creation would be, in effect, their child. On the governing body their voice would be powerful, and to the Inns of Court, I need hardly say, we must mainly look for the funds to carry on the work in worthy fashion. The Inns of Court—to their credit, be it said—have never shown a spirit of parsimony. On the existing system the annual expenditure amounts to some 7,000*l.* If the lectures and classes are made attractive, I doubt whether any larger sum, or, at all events, any substantially larger sum, would be required to work the scheme which I advocate.

I have said that to this body I would confidently entrust the work of education. To the Inns of Court I should still leave untouched, in all their fulness, those functions of discipline, those powers of calling or refusing to call, and of disbarring, which they have hitherto exercised with honour to themselves and with advantage to the public and to the profession. To the Incorporated Law Society, in like manner, I should leave untouched such analogous authority as they now possess. The pith and substance, then, of what I have to urge is the necessity for establishing a school of law. To the governing body of that school of law will fall the working out of a wise and comprehensive system.

But nothing came of this address, and the question of 'legal education' still belongs to the future.

In July 1896 Russell presided over an important State trial. Towards the end of 1895 some five hundred or six hundred English subjects (including a number of English officers), encouraged by Cecil Rhodes, the Prime Minister of the Cape, made a raid into the territory of the South African Republic with the intention of overturning the

Government of Johannesburg and of seizing the town. They were stopped near Krugersdorp by the troops of the Republic, captured, and the leaders were handed over to the English authorities to be dealt with for breach of the neutrality laws. In July 1896 these gentlemen were tried at Bar in London before the Lord Chief Justice, Baron Pollock, Mr. Justice Hawkins, and a special jury, for fitting out a warlike expedition against a friendly State in violation of the Foreign Enlistment Act. The case against them was proved up to the hilt. Seldom, indeed, had so mad and criminal an enterprise been exposed. I was in Court when the Lord Chief Justice charged the jury. It was an impressive scene. Fashionable London had mustered in force to sympathise with the raiders, and to hail their deliverance with joy. That Englishmen—that English officers—should even be tried for invading the territory of the objectionable Boer, seemed preposterous to these proud Imperialists who pinned their faith upon Cecil Rhodes and—the 'commercial asset.' But Russell resolved that justice should be done, and stood between the jury and public opinion. From the beginning to the end of the trial he never allowed the former to escape his iron grip. He charged home against the prisoners, making their guilt and folly transparent, and ended by submitting a series of questions which gave the jury no loophole for a verdict of acquittal.

My brethren and I put these questions to you for two reasons. The principal reason is that they are necessary in order to show the dividing-line between what are questions of fact and what are questions of law, because we think that this is peculiarly a case n

which it would be almost grotesque to ask you, without any guidance from the Court, to pronounce an opinion about what was the effect of documents, and so forth. I also mentioned to you that in asking you to answer these questions we were following a precedent which was set in a very remarkable case—a murder trial—a case which excited a good deal of attention at the time. Of course you remember the shipwrecked crew, who, finding themselves on the ocean without any means of obtaining food, sacrificed the life of one of the persons in the boat. The jury were asked to find, and found, certain facts ; the case was afterwards considered upon these findings. Further, I may mention to you that we were also about to tell you, if you choose, in opposition to the request which I and my brethren make to you, to refuse to answer those questions, nobody can make you answer them. The Court asks you to answer them because they think it is right, in the interests of justice, and in the interests of the vindication of the law, that they should be answered. These questions, then, are :—1. Were the defendants, or any, and which of them, engaged in the preparation of a military expedition at Mafeking to proceed, and with the intention that it should proceed, against a friendly State, the South African Republic? (2) Did the defendants, or any, and which of them, assist in the preparation of such expedition, or aid, abet, or counsel or procure such preparation? (3) Were the defendants, or any, and which of them, employed in any capacity in such expedition? I propose to put the same question to you exactly as to the Pitsani Pittogo with this further question : Did her Majesty the Queen by her representatives exercise, in fact, dominion and sovereignty in the district in which Pitsani Pittogo is situated? As regards these questions I will make one or two observations to you. If you arrive at the conclusion that all these defendants were engaged in the preparation you will answer the question, 'All' ; if none, 'None' ; if

some, who were they? The same as to the second: 'all,' 'none'; if some, who? The same as to the third. Were they employed, or any of them, and which, in what capacity, in the expedition? You must ask yourselves whether there is any reason which occurs to your honest, dispassionate judgment, firmly applied in the consideration of the facts of the case, if there is any reason why any are to be excluded from the enumeration of any of these questions. I am not going to trouble you with any further observations. It has been to you, no doubt, and I am sure it has been to us, a very anxious case. We have been appealed to, and you have been appealed to, by reference to the character and distinction of these men. We should be sorry to doubt the one or the other. It makes the case more important. It makes the case one in which it is more necessary, if the law has been violated, that the law should be vindicated. If, upon the review of this evidence, you can answer any one of these questions, honestly saying that there is no evidence against any of these prisoners, do so. It is your right; the responsibility is yours. If the conviction is borne in upon your minds that this was a military expedition, contrary to this act in the sense in which I have described it, you will do your duty, as jurymen have done before in circumstances much more difficult than these, and concur without hesitation in saying they are guilty.

The jury, after an hour's deliberation, answered all the questions in the affirmative.

The Lord Chief Justice: 'That amounts to a verdict of guilty which you now find against all the defendants.'

The jury then tried to break through the iron ring which had been drawn around them, when the following scene took place:

The Foreman: 'The jury have thought fit, in answer-

ing those questions, to append a rider in the following words: "The jury consider that the state of affairs in Johannesburg presented great provocation."'

The Lord Chief Justice: 'You find a verdict against the defendants, with that representation.'

The Foreman: 'We answered your Lordship's questions categorically.'

The Lord Chief Justice: 'Then I direct you that in accordance with those answers you ought to find a verdict against the defendants.'

Sir Edward Clarke: 'My Lord, I wish to say——'

The Lord Chief Justice: 'I cannot at this moment allow any interposition.'

Sir Edward Clarke: 'I am calling your Lordship's attention——'

The Lord Chief Justice: 'At this moment, no. I am addressing the jury, and cannot allow it. I must ask you to sit down.

'Gentlemen, I direct you that in point of law these findings amount to a verdict of guilty against the defendants, and it is your duty to say so.'

The Foreman: 'There is one objection to that. We have answered your questions categorically as an alternative. We do not agree on a verdict of guilty or not guilty.'

The Lord Chief Justice: 'That is a most unhappy state of things, and if there is one juror objecting to it he ought to reconsider it. These questions, answered as they are, amount to a verdict of guilty, and to nothing else. They are capable of no other construction, and therefore I direct you (and I direct my observations particularly to the gentleman to whom you refer as

differing from the rest) that you ought all to return, in accordance with the terms of these findings, a verdict of guilty.'

The jury conferred in the box for a short time.

The Foreman: 'My Lord, we are unanimous in the verdict of guilty.'

Comparatively light sentences were passed upon the prisoners. Nevertheless, public opinion was apparently exasperated because any sentences had been passed upon them at all. 'When I tried them,' Lord Russell said to me in 1900, 'people said I was too hard on them; but I understand that people now say that I was not hard enough.'

In the autumn of 1896 he was invited to deliver the annual address before the American Bar Association at Saratoga Springs. It was a great occasion, and Lord Russell proved himself equal to it.

'What struck me most,' writes one who accompanied him to America, 'was the earnestness which he threw into his visit. It was organised with the aid of his son Charles, as if it had been a military campaign rather than an autumn trip. Lord Strathcona (then Sir Donald Smith) bade him adieu at Euston, after furnishing him with credentials which afforded the entire party means of luxurious locomotion. "The Chief," as we all called him, hardly wore the air of a man taking a holiday, even during the voyage out. Although he had only lately got quit of the Jameson Raid trial, in which he showed keen political insight as well as high judicial qualities, he was already preparing for fresh work. He seemed to have the responsibility of a serious mission upon him,

which Lockwood's humorous banter only brought into stronger relief.

'When we reached Sandy Hook several newspaper artists came on board, anxious to sketch the features of the man who had played so conspicuous a part in the Behring Sea arbitration, and was already well known to the leaders of the New York Bar and other prominent citizens. As he stood in the bows, attired in an easy travelling suit and crowned with a soft felt hat, Lockwood quietly strolled in the direction of the stern, turned his back on the Chief and every one else, and in a few moments produced an admirable likeness of him, arrayed in judicial robes and wig. Returning to the little knot of journalists he said, "Would you like to know how the Chief Justice looks when he is presiding in his own Court? If so, I make you all a present of this." Instantly every note-book was closed amid a chorus of grateful acknowledgments, and this portrait, and no other, appeared next day as a woodcut in the leading illustrated papers.

'During our stay in the States Lord Russell's mornings were a good deal occupied by persons who desired to be presented to him, and in the evenings there were frequent receptions, at which the same kind of thing went on. But of course the great event of the visit was the address on International Law delivered at Saratoga Springs under the auspices of the American Bar Association. I drove alone with him that day to the Assembly Rooms. He was in that frame of mind which is natural to a man who feels he is going to do a big thing. Nor was his expectation disappointed. Already familiar as I was with what he was about to say, I had no conception

that it could be said in so telling a fashion. The scene was a remarkable one. Some 3,000 persons completely filled every nook and corner of the large room. Representative lawyers from nearly all the States were there, and not a few other notabilities, many of them accompanied by their wives and daughters. The address lasted an hour and twenty minutes and was listened to with rapt attention throughout. Towards its close, when he touched on the blessings of peace, and especially of "peace between the two great divisions of the English-speaking world," the orator contrived to import tears into his voice, and such was the sympathy he evoked that many signs of emotion were displayed by the audience.'

A distinguished American who was among the audience says:

'I have just returned from Saratoga, whither I repaired on Tuesday last to hear your Lord Chief Justice give the American Bar Association a talk on international arbitration. You will doubtless have read his discourse in the London papers; I need not, therefore, tell you of the pleasure—the delight—I experienced in hearing it. My delight was not due entirely to its perfection of form, faultless taste, its sound sense, and the authoritativeness of its doctrines, memorable features as they all were of his discourse, but I was also especially gratified by the decorous but effective way in which, before an audience consisting pretty exclusively of President Cleveland's subjects, he pricked the bubble of international arbitration as preached in these latter days.'

He adds:

'I have spoken of the faultless manner of Sir Charles.

There was one feature of it, however, which escaped the attention of the Press—at least, I have seen no allusion to it. In pronouncing his fine and most impressively delivered peroration, he was near breaking down with emotion; his lips quivered, his voice would have failed him had he not paused longer than usual to recover himself. I was sitting on the front seat immediately in front of him, so that I saw quite distinctly what probably escaped the attention of most of the audience more remote from him. It reminded me of Berryer's experience on the fiftieth anniversary of his professional career, which his brethren of the French Bar celebrated by giving him a grand *fête*. He had spoken but a few words in reply to the toast of the occasion, when he burst into tears. At last, recovering himself a little, he turned to Jules Favre, who presided, and said, "M. Bâtonnier, you advised me to throw my few words of reply on paper, but what should I have done with them? I could not have read them." This felicitous allusion to the blinding evidence of his emotion was more effective than anything he could have said in its place. Your Chief Justice had a little more self-control, which, fortunately, saved us one of the most brilliant gems of his discourses.'[1]

Lord Russell chose as the subject of his address, 'International Law and Arbitration.' In literary form this address was certainly better than anything he had ever done.

I give the peroration:

Mr. President, I come to an end. I have but touched the fringe of a great subject. No one can doubt that

[1] *The Army and Navy Gazette*, Sept. 3, 1896.

sound and well-defined rules of international law conduce to the progress of civilisation and help to insure the peace of the world.

In dealing with the subject of arbitration I have thought it right to sound a note of caution; but it would indeed be a reproach to our nineteen centuries of Christian civilisation if there were now no better method for settling international differences than the cruel and debasing methods of war. May we not hope that the people of these States and the people of the Mother Land—kindred peoples—may in this matter set an example of lasting influence to the world? They are blood relations. They are indeed separate and independent peoples, but neither regards the other as a foreign nation.

We boast of our advance, and often look back with pitying contempt on the ways and manners of generations gone by. Are we ourselves without reproach? Has our civilisation borne the true marks? Must it not be said, as has been said of religion itself, that countless crimes have been committed in its name? Probably it was inevitable that the weaker races should, in the end, succumb; but have we always treated them with consideration and with justice? Has not civilisation too often been presented to them at the point of the bayonet, and the Bible by the hand of the filibuster? And apart from races we deem barbarous, is not the passion for dominion and wealth and power accountable for the worst chapters of cruelty and oppression written in the world's history? Few peoples—perhaps none—are free from this reproach. What, indeed, is true civilisation? By its fruit you shall know it. It is not dominion, wealth, material luxury; nay, not even a great literature and education widespread—good though these things be. Civilisation is not a veneer; it must penetrate to the very heart and core of societies of men.

Its true signs are thought for the poor and suffering,

chivalrous regard and respect for woman, the frank recognition of human brotherhood, irrespective of race or colour or nation or religion, the narrowing of the domain of mere force as a governing factor in the world, the love of ordered freedom, abhorrence of what is mean and cruel and vile, ceaseless devotion to the claims of justice. Civilisation in that, its true, its highest sense, must make for peace. We have solid grounds for faith in the future. Government is becoming more and more, but in no narrow class sense, government of the people by the people and for the people. Populations are no longer moved and manœuvred as the arbitrary will or restless ambition or caprice of kings or potentates may dictate. And although democracy is subject to violent gusts of passion and prejudice, they are gusts only. The abiding sentiment of the masses is for peace—for peace to live industrious lives and to be at rest with all mankind. With the prophet of old they feel—though the feeling may find no articulate utterance—'how beautiful upon the mountains are the feet of Him that bringeth good tidings, that publisheth peace.'

Mr. President, I began by speaking of the two great divisions—American and British—of that English-speaking world which you and I represent to-day, and with one more reference to them I end.

Who can doubt the influence they possess for insuring the healthy progress and the peace of mankind? But if this influence is to be fully felt they must work together in cordial friendship, each people in its own sphere of action. If they have great power they have also great responsibility. No cause they espouse can fail; no cause they oppose can triumph. The future is, in large part, theirs. They have the making of history in the times that are to come. The greatest calamity that could befall would be strife which should divide them.

Let us pray that this shall never be. Let us pray

that they, always self-respecting, each in honour upholding its own flag, safeguarding its own heritage of right and respecting the rights of others, each in its own way fulfilling its high national destiny, shall yet work in harmony for the progress and the peace of the world.

'There is one incident,' says Lord Russell's companion, whom I have already quoted, 'of a quasi-public character, which I think I am at liberty to mention. It throws a further light on Lord Russell's sense of public duty, and illustrates his power of renunciation:

'When, in September, we returned to New York from a charming visit to the Viceregal Lodge at Ottawa, we found the former city placarded with the announcement that Mr. Bryan, as candidate for the Presidency, was to address a mass meeting at Tammany Hall. It was obviously undesirable that the Lord Chief Justice of England should appear to be taking part in a political demonstration; so Mr. Godkin, the editor of the *Nation*, kindly undertook to get us all a large private box, where any of us could enjoy as much seclusion as we chose. The Chief, Lockwood, James Fox, and I, all dined together, and afterwards adjourned to the meeting, which was to begin at eight o'clock, Lady Russell and Lady Lockwood accompanying us. As our places had been secured, and we were to have a police escort, we did not hurry ourselves, and only arrived shortly before the hour named. We were taken to a side door, from which a tortuous staircase led to the hall through divers apartments devoted to public entertainments, one being the green-room of a variety theatre, where a young lady was preparing to "go on" for the ballet. When we got to the head of the stairs we were informed by the police

inspector that it was impossible for us to reach our box without walking on the heads of some hundreds of persons, the audience being packed as tightly as herrings in a barrel. We were therefore obliged to remain on a sort of platform; chairs were at once sent for, and we were assured that we could not be in a better position, both for seeing and hearing. This statement was not beyond the mark, for, our attention being drawn to a gentleman in evening dress, who was turning over some slips of paper in a corner, we speedily discovered this was Mr. Bryan himself. Then followed a pretty little bit of light comedy. Mr. Bryan, although he was just about to mount the rostrum, on being told that the Chief Justice of England was close to him, at once gathered his notes together and sought an introduction. Gracious words of courtesy were interchanged in the sight of some 10,000 people. Now, however, came the awkward hitch. Here was the Chief Justice on Mr. Bryan's platform in full view of the assembled multitude, and, to all appearances, stationed there as one of his staunchest supporters—the very situation we had desired to avoid. In an instant he made up his mind what to do. "I am very sorry," he said to Mr. Bryan, "I cannot stay to hear you; but it is impossible for me to do so." Then, giving Lady Russell his arm, he proceeded to pilot her down the stairs we had come up, wishing the rest of his party "Good-night."

'We who stayed had a most interesting and, indeed, exciting time—for this was a political meeting with a vengeance; but Lord Russell had to put up with an account of it which he read in the papers the next morning.'

The Chaplain of Lincoln's Inn, in paying a tribute to the memory of Lord Russell soon after his death, said: 'His name will live in the recollection of the people of England as that of the judge who set himself the task of rebuking commercial dishonesty wherever he met it.'

The zeal with which he strove to put an end to the vicious system of secret commissions is well known. He believed that the system was a canker which ate into the commercial life of the country, and one of his last acts was the introduction of a Bill to root it out.

I am indebted to the courtesy of Sir Edward Fry for a statement of the circumstances under which Russell took up the question. Sir Edward writes:

'Lord Russell's attention was no doubt drawn to the subject of illicit commissions and other secret payments of the same kind by his experience first at the Bar and subsequently on the Bench. The case to which he most often referred in conversation was, I think, that of the Mayor and Corporation of Salford and Lever,[1] which decided that where one party to a contract of sale bribes the agent of the other party in respect of the contract, the party whose agent has been bribed has a right of action (1) against his agent for recovery of the amount received as a bribe, and (2) against the bribing party to recover the loss which the plaintiff has sustained through the fraudulent dealing with his agent.

'In the summer of 1896 Lord Russell, as Chief Justice, tried a case of Oetzman and Long, in which the plaintiffs sought to recover damages for the injury

[1] See Appendix B.

sustained by them in consequence of the defendants having corruptly procured contracts for the supply of ivory to the plaintiffs from one of the plaintiffs' buyers in excess of current market prices. On this occasion the Lord Chief Justice spoke his mind on the subject in no uncertain tones. The report in the *Drapers' Record* of July 11, 1896, is as follows :

'" The learned judge, in summing up, said the course which had been taken very much simplified the matter. Under the circumstances the simple question he should put to the jury was, 'Did the defendants' firm, by Mr. Alexander Biggins, one of the partners, make a corrupt bargain with the plaintiffs' buyer (Woods), to the prejudice of the plaintiffs?' The question was undoubtedly one of very great moment. It was of great moment to the defendants for two reasons—first, because the credit and veracity of one of that firm was in question, and second, because if the jury found affirmatively in reply to the question which he had suggested, it convicted the defendants' firm of a very corrupt and dishonest system of trading. But the importance of the case did not end there. He did not stop to speak of its importance to the plaintiffs, but he could not forbear speaking of its importance in the interest of honest trading. This business of corrupt bargains was a malignant canker ; it was affecting honesty in all or in many details of the relations of life, and was not confined to commercial relations. It was dishonest to fair trading ; it was dishonest to the fair employer ; it broke down that principle of morality which ought to be preserved among men who desire to cultivate and observe honesty. The Legislature had made it a crime to make corrupt bargains with

persons holding public positions—surveyors, architects, clerks of public bodies, and the like—and if the evil, which constantly cropped up in courts of justice, continued, the Legislature must attempt the task of cutting out this canker, and, so far as the matter rested with juries, they must not flinch from their duty."

'About the same time it happened that I was invited to deliver an address to a technical school in Bristol, and I took the opportunity of saying something about the temptations to which the students would be exposed when they entered upon commercial life in this country. Some notes of what I said found their way into the papers, and in consequence I received from a firm of engineers in the north of England a communication on the subject of bribery in commerce which, with their consent, I made public through the columns of the *Times*. Some correspondence ensued between Lord Russell and myself on this subject, and in one of his letters he said that if I would draw a Bill he would introduce it into the Lords. After some delay, caused partly by my doubts as to the efficiency of legislation in this matter, I drew a draft Bill which was the basis of all our subsequent drafts, and sent it to the Lord Chief Justice. I need not say that often and often the draft was revised; that we met upon the subject repeatedly, and corresponded on the matter almost down to his last days. The final touches were given to the draft when the Lord Chief Justice was in France in the summer of 1899, and were subsequently adopted by him. We were both present and took part at a dinner given by the London Chamber of Commerce, when the subject of illicit commissions formed one of the topics of the evening.'

Arising out of his crusade against commercial dishonesty Russell took the opportunity given to him on the occasion of the annual visit of the Lord Mayor of London to the Courts on November 9, 1898, to make the following speech :

My Lord Mayor—I have listened with great satisfaction to one part particularly of the address of the learned Recorder. I mean that part of his address in which he spoke of the services you had rendered by putting a stop to the adulteration of foodstuffs, and the part which you have taken in procuring legislation, which first began to be effective in or about the year 1875, for putting down frauds by that adulteration—frauds which affected a large part of the community, and the part of the community the least able to protect itself. My Lord Mayor, you were then a public benefactor. I take this opportunity—which I think is suitable for the purpose—to call your attention to another class of fraud which is rampant in this community, fraud of a most dangerous kind, widespread in its operation, touching all classes, involving great pecuniary loss to the community, loss largely borne by those who are least able to bear it. And, even much more important than this, fraud which is working insidiously to undermine and corrupt that high sense of public morality which it ought to be the common object of all interested in the good of the community to maintain, fraud blunting the sharp edge of honour and besmirching honourable names. I need not tell you I am alluding to the frauds practised in abuse of the law relating to the formation of companies with limited liability. That law has effected much good. Its object was to enable that to be done by honest co-operation of the many which could not be done by the unaided efforts and resources of one or a few. But it has been, I am sorry to say, in many cases—of course a minority, and I hope a small minority of cases, but still a minority

deserving and demanding public attention—prostituted by the greed of unscrupulous persons in the hurry to obtain great wealth without being willing to put forth for its acquirement honest toil and honest endeavour. This fraud, like the mythological character, Proteus, has assumed many and various aspects and disguises ; and the problem, which is not yet solved, as I conceive and as experience shows, by existing legislation, is to reconcile the useful operation of the Companies Acts with such machinery as, if it cannot wholly prevent, will minimise the evils to the nature and extent of which I have referred. When I touch a subject I desire to touch it with at least such completeness as will convey to those whose minds and consciences I wish to reach what I believe about it. And therefore I must ask permission to give a few illustrations of the evils which I have in my mind, and to point to a mode in which it seems to me those evils may be combated. One common cause of loss, and one common mode of perpetrating the fraud, even if a concern is solid and worthy, is over-capitalisation. A concern which is honestly worth 100,000*l.*, and which upon that capital value might well pay a decent return for investment, becomes an imposition if inflated to satisfy the greed of the middleman and promoter to cover extravagant advertising charges, extravagant fees for expert reports, gifts in money or in shares to procure directors, aye, and even to procure the introduction of directors. By these means it is offered to the public at an inflated price—at two or three times its actual value. Need I say that in such cases loss and failure are certain, and the public are called upon to pay for the deception which has been practised upon them? Even if it could be said that the boards of directors brought actual knowledge of business or strength of government to the concern it might at least mitigate the evil. But it is notorious that in too many cases they bring neither one nor the other—neither knowledge nor strength—that they are

chosen because it is supposed that their names or their titles might be attractive to the public. That is one great cause of the frauds which are carried out. Another is that utterly worthless concerns are foisted upon the public. The same machinery is used, but it is a machinery which resorts to the grosser forms of misrepresentation and fraud. A few illustrations which have come before the Courts occur to me. There was one case in which a property was sold, or at least purported by the vendor to be sold—a property on the West Coast of Africa—for the sum of 48,000*l.*, when there was no property in existence at all. But an agent was sent out after this fictitious sale had been effected, whose report recorded the purchase of a property for the sum of 140*l.* from a native negro chief, which the agent thought would nearly answer the description given of the fictitious property described in the prospectus. In another case, a business, having been bought a few weeks before the formation of a company for a sum of 637*l.*, was sold to the public, who subscribed something like 76,650*l.* These are the grosser cases. Another mode of fraud which is practised—I am speaking from my experience in Courts of Justice—is this, going to allotment on insufficient capital. The public did not subscribe as was hoped, and there was but a small amount of money from them. What, then, is to be done? An honest, independent, disinterested board of directors who knew their business would say that it was impossible to go to allotment upon such a subscription. But they are not their own masters; they are, in the case which I have been supposing, creatures of the promoter, who pays them; they are not in a position to form an independent judgment. What is the result? The promoter gets hold of what money there is, and, to carry on the company's miserable weak existence, the directors issue debentures which are largely unregistered, and of which the creditors have no notice. They get an apparent

amount of business carried on by the company; tradesmen and merchants deal with them, and when the crash comes, down come the debenture-holders and sweep away their stock—every stick that belongs to the company—and the creditors are left without remedy. Another, and the last, illustration I would give is the case of what is known as the 'one man company,' that is to say, where a man changes his business into a company and takes payment in debentures of that company. Again the public take shares and merchants deal with the company, and when the crash comes the debenture-holder, the vendor, or the vendor's assignee comes down, and again the creditor is left without redress. I have only one word more to say in this connection, but it is an important word. It is this—that when the constitution of companies under the Act is considered, these things would be impossible—certainly impossible to anything like the same extent—if the boards of directors were honest, intelligent, independent men with no interest to serve except the interests of the shareholders. The first duty of a board of directors is to determine whether they will approve of the contract on which it is intended to base the proceedings and action of the company. The next important question which they have to decide is whether they will or will not go to allotment. If they are paid by the promoter and have interests different from those of the shareholders, how can it be said—indeed, how can it be expected—that they shall discharge honestly the trust which they owe to the public? It is time that public opinion was aroused on this question. You, my Lord Mayor, can yourself do much in this direction, and those who are associated with you in the great Corporation of which you are the head can do much by example, by condemnation, by ostracisation of any persons who have art or part in any such nefarious enterprises—if enterprises they can properly be called. Above all, you can give to the

Legislature the benefit of your ripe experience in commerce in advising how this state of things can be remedied, if it can be. I think all agree that the law in this regard ought to aim at two objects. The first object ought to be to insure as far as practicable that the public should be afforded all such information as might affect the reasonable judgment of a man in determining whether or not to invest in a particular concern. The next object ought to be that all holding fiduciary or quasi-fiduciary positions should be bound to disclose fully and clearly any interest which they possess differing from the interest of the other shareholders. In other words, the transaction should be open and above-board, and all the parties dealing on equal terms. My Lord Mayor, although many such cases as I have suggested have taken place, it is to be regretted that in but few instances has punishment fallen upon the perpetrators of crimes such as these—for crimes they certainly are; for while the law is swift to punish, and ready as the machinery is to punish offences against the law of property, for reasons upon which I need not dwell it is often difficult to procure evidence in support of a prosecution. I have heard it said that it is impossible to make the law more stringent, because it will frighten away from the direction of public boards honourable and honest men. I do not say that consideration is to be disregarded. Far from it; but I do not believe that any honourable and honest man who desires according to his conscience to discharge the trust which is imposed upon him would suffer by any greater stringency of the law to give effect to the two objects to which I have referred.

I said a few minutes ago that great pecuniary losses had followed from these nefarious practices. The official receiver[1] charged with the winding-up of public companies, who has rendered and is rendering the most

[1] Mr. George Barnes.

valuable public service, has at my request furnished me with some figures on this head. They are startling. He gives me the figures for a period of seven years from 1891, and up to and including 1897. And upon the official information at his command, and taking the advice of those in a position to check the estimate—for in part it must necessarily be an estimate—he comes to the conclusion that in that period of seven years there has been lost to the community no less a sum than 28,159,482*l.* —made up of losses of creditors dealing with companies, 7,696,848*l.*; and of loss to the wretched contributories or shareholders, 20,462,634*l.* And, my Lord Mayor, when you recollect that these are figures relating only to companies wound up compulsorily, and that they exclude cases of reduced capital, the losses in relation to companies whose shares were taken by the public at par, but whose present value represents only a very few shillings or pence in the pound of their par value, you will see that the loss to the public is enormous; but in addition to that is what I think is a weightier consideration—the effect of such transactions, if allowed to go on, almost with impunity, upon the public mind and conscience. These are pressing considerations which show that these matters should be dealt with as of urgent importance at the present moment.

On April 20, 1899, Russell introduced the Bill dealing with Secret Commissions in the House of Lords. Having quoted some extracts from the Report of the Special Committee of the Chamber of Commerce, showing how this vice of secret commissions was prevalent 'in almost all trades and professions to a great extent,' producing 'great evil alike to the morals of the commercial community and to the profits of honest traders,' he said:

One of the most painful experiences which I have had professionally was at the Leeds Assizes, where I had to defend an old man who had been in business for something like fifty years. He was a member of the local Corporation. His son was succeeding him in business. He was charged at the Assize Court with having entered into a conspiracy with Lord Masham's foreman dyer to defraud Lord Masham, who is the head of a silk manufactory in Bradford, by invoicing goods which were never delivered, by invoicing inferior goods and charging the price of higher-class goods, and, occasionally, when they sent the best goods, by charging an excessive price for them. When I saw my client and his solicitor I said, 'If the evidence as on the depositions comes out, the case is hopeless. How could a man holding a respectable position, and so long before the public, be a party to such transactions?' His explanation was a very pathetic one. He said he could not help it; that he was driven to it. It began first with small commissions, but gradually the screw was turned on, and his trade profit would have disappeared altogether if he had not fallen in with the arrangement. I asked him if he could not have gone to Lord Masham and told him. He said he could, but the result would have been that the foreman would have been dismissed, and another man put in his place; and if he had not made an arrangement with the new foreman, that man, when a vat containing perhaps 220*l.* or 300*l.* worth of stuff was in the process of dyeing, would have put some noxious stuff into the vat, and would have said to Lord Masham, 'See the kind of drugs you are using. You will have to change your drug merchant.' I do not believe that is at all an isolated case.

He then explained the Bill which had been drafted 'in conjunction with Sir Edward Fry, a man known to this House as one who rendered distinguished judicial

service to the country, and who, like a great many others, has been impressed by the necessity of doing something effective at least to mitigate the evil.' The objects of the Bill, he said, could best be explained by the opening sentence of the explanatory memorandum:

'The object of the Bill may be shortly stated as an effort to check, by making them criminal, a large number of inequitable and illegal secret payments, all of which are dishonest, and tend to stifle confidence between man and man, and to discourage honest trade and enterprise.'[1] Briefly the Bill created six new offences: (1) corruptly giving to an agent any valuable consideration; (2) corruptly offering the same to an agent; (3) corruptly receiving the same by an agent; (4) corruptly soliciting the same by an agent; (5) giving interested advice as if it were independent; (6) issuing false invoices and similar documents. The punishments were: (1) imprisonment; (2) fine; (3) the payment to the person aggrieved of the amount or value of the sum or property unlawfully received. He concluded thus:

I feel strongly on this question, and have been led to detain the House at some length with the hope that your Lordships will share the strong interest I feel. As a question of money, and as affecting trade, it is important; but that is not the only view presented to my mind. It is a practice that tarnishes the character of lawful commerce; it blunts the sense of honesty in the men engaged in it; it is injurious to the honest man trying to conduct his business on high and honourable principles, and has a corrupting and degrading influence in ways that I need not formulate or define. I commend

[1] See an able exposition of the Bill by Sir Edward Fry in the *Contemporary Review*, November 1899.

the Bill as an honest attempt to deal with what I conceive to be a great and growing evil.

The Bill was read a first time, but owing to Russell's absence in Paris in connection with the Venezuelan Arbitration no further steps were taken in the matter. He reintroduced the Bill in 1900. It was read a second time, and passed into Committee, but it did not become law.

On November 9, 1899, Russell once more took advantage of the Lord Mayor's presence in the Courts to speak on subjects connected with the commercial life of the country. He said :

My Lord Mayor,—The Court has heard with satisfaction the eloquent speech of the learned Recorder, and has heard with particular satisfaction, and I may add with a sense of relief, one statement which he made. We also have had our attention drawn to certain injurious statements relating to your conduct, with others, in connection with the promotion and conduct of certain public enterprises; and I need not say that it is a very grave and very serious thing that in the history of a company with which your name has been associated, a learned Judge of the High Court should have thought it his duty to say that he might consider it necessary to lay the papers relating to that history before the Public Prosecutor. It is because of the serious character of this suggestion that we have heard with satisfaction the statement which you have authorised the learned Recorder to make, viz., that you are prepared to meet these injurious allegations and to defend your reputation before the established tribunals. It is obvious, my Lord Mayor, that you owe this not only to yourself, not only to the high office you hold, but to those citizens of London who have placed you in the

highest position which it is in their power to bestow. For, as the Lord Chancellor well said when he was expressing the pleasure of the Queen in your regard, the election of Lord Mayor of London is not merely a recognition by the citizens of London of his ability, his energy, his success in commercial enterprise, but it is also an honour bestowed by them because they believe that that success has been worthily attained. My Lord Mayor, the community will heartily rejoice when your Lordship shall have cleared your reputation from any suggestion made against it.

When, this time last year, I had the honour of addressing your distinguished predecessor in your high office I referred to a subject of great public importance, proper, as I consider, to be spoken of from this place. But in the circumstances in which I am now addressing you, my Lord Mayor, I wish only to say a word or two upon that subject. I mean the need—as I conceive the urgent need—for further protective legislation in relation to the promotion and carrying on of public companies. The Legislature has recognised the need for measures aimed in this direction, for in several Sessions of Parliament Committees of the House of Lords have been endeavouring to solve in this relation the problem of how to prevent, or at least to narrow the area of, fraud, while at the same time not interfering with the useful efficiency and operation of the Acts dealing with limited liability companies. The aim of any such legislation is clear and is simple. It is to enforce the rules of common honesty as to the promotion of companies. When appeals are made to the public to subscribe to the capital of undertakings, it ought to be obligatory to disclose every fact known to the promoters and unknown to the public, which might affect the mind of a reasonable person in determining whether he will or will not subscribe to the purposes of the undertaking. Everything ought to be above-board ; no concealment, no secret profits ; the

parties, public and promoters alike, ought to deal with equal information as regards the carrying on of such companies. The directors ought to be men of independence, not the creatures of promoters, paid by promoters, qualified by promoters, but men bringing reasonable skill and knowledge to the matters which they undertake, and, even more important, independence of mind and perfect honesty to their task. My Lord Mayor, in saying this I am not uttering any counsels of perfection. I am saying what the plain dictates of honesty—common honesty—suggest. I hope that Parliament will feel itself competent at an early date to deal adequately and efficiently with this subject.[1]

Turning from domestic matters, we shall, in the next chapter, find the Lord Chief Justice playing an important part in foreign affairs.

[1] It may be noted that in 1901 Lord Halsbury brought in a Bill designed to remedy some of the mischiefs denounced by Lord Russell in his addresses above quoted; but the Bill has not yet become law.

CHAPTER XV

VENEZUELAN ARBITRATION

In 1895 an old dispute between England and the little republic of Venezuela, relating to the boundary of British Guiana, reached a critical stage. It would be of small interest now to enter into the complicated details of this question, and, indeed, it would be impossible to make the subject intelligible without constant reference to a map. The main features of the dispute I shall, however, try roughly to outline.

In 1796 England conquered Guiana, taking it from the Dutch. By right of conquest England claimed all the territory which, she said, had been held by the Dutch. In other words she claimed 'a frontier beginning considerably to the west of Barima, on the Orinoco, and including, practically, the whole basin of the Essequibo River.'[1]

In 1814 Venezuela, then a Spanish colony, revolted from the mother country, and in 1830 became an independent republic. As England claimed all the territory which had belonged to the Dutch, Venezuela claimed all the territory which had belonged to Spain; and so the question practically resolved itself into this: What had been Dutch territory before the English conquest, and what had been Spanish terri-

[1] The *Times*.

tory before the Venezuelan revolt? In 1840 a line had been drawn by Sir R. Schomburgk called the Schomburgk line. It was said that this line divided about midway the territories in dispute, and, in 1850, a convention was entered into between England and Venezuela by which it was agreed that no encroachments should be made in the disputed area by either State, pending the settlement of the controversy. But England asserted that Venezuela had broken the convention, and was constantly encroaching on the neutral ground. Venezuela, on the other hand, charged England with a policy of habitual aggression and aggrandisement. People in this country took little interest in the subject, until, in 1895, the Government of the United States intervened in behalf of Venezuela, demanding that the whole question should be referred to arbitration. England declared, in effect, that, whatever might be the merits of the dispute between her and Venezuela, the United States had no right whatever to interfere; and, indeed, Mr. Carter, an eminent American lawyer (who had been opposed to Russell in the Behring Sea arbitration), seems to have taken the same view, saying that the 'Venezuelan dispute was of no real concern to the United States unless England sought to extend her territory, of which there was no evidence.'[1] England declined to submit the matter to arbitration, and then, after the exchange of diplomatic arguments, the President of the United States sent the following message to Congress on December 17, 1895:

'Having laboured faithfully for many years to induce

[1] *Times*, December 9, 1895.

Great Britain to submit this dispute to impartial arbitration, and having been now finally apprised of her refusal to do so, nothing remains but to accept the situation, to recognise its plain requirements, and to deal with it accordingly. Great Britain's present proposition has never thus far been regarded as admissible by Venezuela, though any adjustment of boundary which that country may deem for her advantage, and may enter into of her own free will, cannot, of course, be objected to by us.

'Assuming, however, that the attitude of Venezuela will remain unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine, with sufficient certainty for its justification, what is the true divisional line between the Republic of Venezuela and British Guiana. An inquiry to that end should, of course, be conducted carefully and judicially, and due weight should be given to all available evidence, records, and facts in support of the claims of both parties. In order that such examination should be prosecuted in a thorough and satisfactory manner I suggest that Congress make an adequate appropriation for the expenses of a Commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted, it will, in my opinion, be the duty of the United States to resist by every means in its power, as a wilful aggression upon its rights and interests, the appropriation by Great Britain of any lands, or the exercise of governmental jurisdiction over any territory which, after investigation, we have determined of right to belong to Venezuela.

'In making these recommendations I am fully alive to the full responsibility incurred, and keenly realise all the consequences that may follow. I am, nevertheless, firm in my conviction that, while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilisation, and strenuous and worthy rivals in all the arts of peace, there is no calamity which a nation can invite which equals that which follows supine submission to wrong and injustice, and a consequent loss of national self-respect and honour, beneath which are shielded and defended the people's safety and greatness.'

This 'warlike' message, as the newspapers called it, put a new complexion on the case. 'The details of the boundary dispute with Venezuela,' said the *Times*, 'are insignificant in comparison with the far-reaching claims put forward in Mr. Olney's despatch and emphasised in Mr. Cleveland's message.' The interference of the United States had suddenly raised the Venezuelan dispute to the first rank in political controversies. Lord Salisbury repudiated the pretensions of the American Government, and stood firm in his determination not to submit the question to arbitration.

On the other hand, the Commission, proposed by the American President, was appointed, and the relations between England and the United States became more strained than ever.

On January 13, 1896, Russell wrote to Mr. Carter:

DEAR MR. CARTER,—It seems to me we are drifting into a state of things which, if not checked, may land

Great Britain and the United States in hostilities, or at least in a state of alienation which would bode ill for the interests of both communities, and for the peace and progress of the world. Can nothing be done?

The position, as it strikes me, is this: The President has in effect said, 'I will appoint a Commission to determine the true line of delimitation between British territory and that of Venezuela; and if Great Britain will not assent to such line, and attempts to occupy territory beyond it, I shall defend Venezuela by the arms of the Republic, and treat the action of the British Government as a *casus belli*.' It seems to me that this is a course in which neither Great Britain nor any self-respecting nation could acquiesce.

Having said this, I am far from wishing to express judgment for the British Government on the merits of the dispute between Venezuela and Great Britain. On the contrary, it seems to me that the British Government has not maintained a uniform or consistent position throughout the protracted disputes with Venezuela. Their claims have varied from time to time, as have also the positions assumed by Venezuela, and, as between those two Governments, it seems to me to be eminently a case for arbitration. The actual boundary line is a matter relatively of small importance; what is important is that a line shall be fixed. There may be some difficulty arising from English settlements having been established here and there in territory not admittedly British at the time of the enunciation of the Monroe doctrine; but these are matters which ought to be capable of adjustment on a give-and-take principle, and I would give to the arbitrators the power to say what ought to be done in such cases.

Throughout the greater part of 1896 the question still remained open; but on November 9, at the Mansion House dinner, Lord Salisbury announced that it had

practically been settled, and that the dispute between England and Venezuela would be referred to arbitration.

In 1897 the Arbitration Treaty was signed. A Joint Commission was to be appointed, consisting of five members, two from England, two from the United States, and one from an impartial nationality. What were called 'settled districts' were to be excluded from the inquiry, and in deciding what were 'settled districts' it was agreed, on the suggestion of the Washington Cabinet, that the principle of prescription should be admitted. Lord Herschell and Lord Justice Henn Collins were appointed the English arbitrators. But in 1899 Lord Herschell died, whereupon Lord Salisbury asked Lord Russell to take his place. The Prime Minister wrote, on March 15:

MY DEAR LORD,—I have been hoping to come and see you for some days, but my cold has prevented me. I am therefore compelled to trouble you by letter. My object is to ask you to undertake the task which our lamented friend Lord Herschell had undertaken—the principal arbitership on the British side in the approaching Venezuelan arbitration. I hesitate to ask you to undertake a duty which will involve a good deal of labour—in addition to that which falls upon you naturally in consequence of the high office you hold. But you are, from every point of view, so incomparably the fittest man among us for this duty, that I venture to ask, as a patriotic sacrifice, to allow me to submit your name to the Queen for that purpose.

The arbitrators met in Paris in the summer and autumn of 1899, M. Martens, an eminent Russian jurist, acting as umpire. The award was made in October.

Something was given to England, something to Venezuela, and peace was preserved.[1] Speaking at a dinner at the Royal Societies Club in December, Russell said, referring to the 'results of the arbitration':

We all strove to do justice; I think we succeeded. I think the result of the arbitration is to give to Venezuela all that Venezuela is fairly and honestly entitled to, and to give to Great Britain no more than Great Britain is honestly entitled to have. There is, to my mind, no question of triumph in the matter. A judge can rejoice in only one triumph, and that is the triumph of justice. It may be left to the distinguished American counsel acting for Venezuela—I mean ex-President Harrison, Mr. Tracey, Mr. Soley, and Mr. Mallet Prevost on the one hand, or to my hon. and learned friends Sir Richard Webster, Sir Robert Reid, Mr. Askwith, and Mr. Rowlatt—if they desired on other occasions to cockcrow and flap their wings; but certainly this is not the occasion, and this is not the part I desire to play. One observation I would like to make in passing, and I make it more particularly because I believe this is a gathering in which there are reporters of the Press. My observation is this: Before the arbitration had proceeded for any considerable time, one leading English paper—I believe it is called the leading paper—had an article in which it, in very strong and emphatic language, told the arbitrators to hurry up, that they were wasting a great deal of time, that the question was simply to draw a line, and that it did not very much matter to

[1] The decision was substantially in favour of this country, and authorised the inclusion within British Guiana of the great bulk of the territory embraced by what is known as the Schomburgk line. The only exception, of any note, to this sweep of the award lay in the fact that it assigned to Venezuela a small tract at Barima Point, on the delta of the Orinoco, to which on strategical grounds the Venezuelans had always attached high value.—*Annual Register*, 1899, p. 235.

anyone where the line was drawn. I hope it will not be considered too strong language to use if I say that I consider that article a gross impertinence. It is not only a gross impertinence, but it shows an entire want, as I conceive, of the sense of the necessity of at least one essential condition being observed in those public arbitrations, in those international arbitrations, and that is that they ought never to be so conducted as to leave it open to either party to the dispute thereafter to say, 'We have not been fully, adequately, competently heard.'

But that arbitration, as it seems to me, has an importance far beyond the great importance of the interests which are directly involved in it. Its importance is that it had demonstrated to the world that a question which had occupied the attention even for generations of the leading men in the two nations or countries involved yet might be peacefully, satisfactorily, economically determined without bloodshed and without leaving behind it a heritage of bad blood and ill-will. But I again repeat—and it is the concluding note which I desire to sound—that if arbitrations of this kind are to be successful they must be arbitrations in which the arbitrators are not partisans; they must be arbitrators who will have the sense of individual judicial responsibility upon each of them. And although, as I have already said, it would not be possible to remove all impressions, yet it is possible, as I believe, pursuing those lines, to constitute an arbitration in which, judicially conducted, it is certain substantial justice will be done.

When the arbitration was over Lord Salisbury wrote:

'On the conclusion of the proceedings in the arbitration, I have received the Queen's commands to express to your Lordship her Majesty's appreciation of your eminent services as one of the British arbitrators.

'The Queen recognises that the necessity of obtaining a thorough knowledge of the intricate questions submitted to the tribunal by the two Governments concerned has involved much labour and personal inconvenience, and her Majesty desires me to thank you for the ability and devotion which you have shown in discharging the important duties entrusted to you.'

After Lord Russell's death, his colleague, Lord Justice Henn Collins, bore testimony to the public services rendered by the Chief Justice in the Venezuelan arbitration:

'I do not believe that the public have ever sufficiently realised the great debt they owe to Lord Russell of Killowen for the influence he exercised in bringing about the happy result of that award. I do not believe that there was any other man in this kingdom who was capable of bringing a weight, a gravity, an indisputable supremacy in discussion and in argument such as he brought to bear on the solution of that question.'

CHAPTER XVI

THE DREYFUS CASE

THE next event in the life of Lord Russell, to which I wish to refer, is his presence at the court-martial which tried Dreyfus at Rennes in 1899. It being intimated to him that Queen Victoria would like to hear his account of the trial, he prepared a paper, which was read to her. This paper shall form the subject of the present chapter.

PAPER BY LORD RUSSELL

Written 16 *September* 1899

I am not quite sure that I rightly understand what is required of me—whether it is desired that I should state my impressions of the Dreyfus case generally (including my observations at Rennes) and the course and action of French opinion in relation to it, or whether I should speak only of my impressions of the Conseil de Guerre at Rennes, formed during my two days' visit to that tribunal.

I shall, however, assume that it is the former which is desired, even at the risk of writing what may be considered unnecessary and tedious.

I have followed the Dreyfus case from its earliest to

its latest stage with close interest; and, while I have come to the clear conclusion that the case against Dreyfus was supported by no solid evidence, I at the same time think that a harsh judgment has been pronounced by the foreign Press generally, and notably by that of Great Britain, not only upon some of the persons concerned, but even upon the French nation as a whole.

To begin with, it is necessary to bear in mind the almost sacred character with which the imagination of the French people has invested their army. Nor is this without some natural explanation. Looking to the numerous divisions of political parties, even amongst those who advocate constitutional government in some form or another, and remembering besides the large and increasing number of socialists (to say nothing of the anarchistic element), it is hardly wonderful that large masses of the people have come to doubt the stability of its government and to regard the army as the sole ark of safety in France. When, therefore, the original Conseil de Guerre pronounced against Dreyfus, it was quite natural that the people of France should believe in its judgment. There is, in fact, no reason to believe that the members of that original council were otherwise than perfectly honest. They were certainly bad judges, unversed in the art of weighing evidence, likely to be unduly impressed by the testimony and attitude of members of the État Major; but I think there is no ground for saying that they were not honest men according to their lights.

When, further, this judgment was defended not by one but by several ministers of war in succession, and by several ministries in succession, the justice of

Dreyfus's condemnation became a fixed conviction of the French nation.

Later, when facts began to leak out which made thoughtful people doubt the justice of the condemnation, it was unfortunate for Dreyfus that amongst the most prominent advocates for revision were to be found (1) foreign journals, and in France (2) amongst the class of men like Clémenceau and Urbain-Gohier (in the *Aurore*), and Jaurès (the socialist leader) in the *Matin*.

These men were only too glad, while advocating the rehabilitation of Dreyfus, to make his cause the opportunity for an attack upon the army as an institution. I do not mean to say that there were not others in France who advocated revision who were free from these imputations.

As to the foreign journals, France has not yet realised the fact that every great drama, whether in Courts of Justice or elsewhere, is now played before the whole world as an audience, and is therefore subject to the criticism of the whole world. France has not realised that the telegraph and the telephone have almost brought the ends of the earth together, and that it is quite impossible to treat, as a purely domestic concern, any question which, like this one, appears to touch the very foundations of justice. In all circumstances it not only distrusts the motive of foreign advice or interference, but repudiates and grievously resents it.

In fact, France does not regard any of the great communities of the world, except Russia and perhaps the United States of America, as friendly to her. The result has been that the adverse comments in the German and in the British Press, so far from helping the cause

of Dreyfus, have been appealed to and paraded by those who profess to believe in his guilt, as if they afforded corroborative evidence of his guilt.

It was, of course, impossible that the British Press could be silent; but it is nevertheless true that, so far as Dreyfus was concerned, it has done him not good, but harm; and it is but just to say that, in its comments during the actual sittings of the Court, the British Press, from the *Times* upwards or downwards, almost without exception, have indulged in such partisan comment as would have earned for their editors, at the hands of English judges, prompt committal to prison had any such comments been made pending a trial in England. These comments would have amounted to what is called contempt of Court, which means that they would have had a direct tendency to interfere with the due course of justice.

What has especially troubled the French people is that these attacks have not been confined to those immediately concerned as judges or as military officers in the Dreyfus case, but have been extended to the French nation as a whole, and against that nation has been levelled the charge of a general decadence of moral tone and sense. Indeed, the latest form that these comments have taken is an attack upon the religion of the mass of the people of France, which is also the religion of a not unimportant section of her Majesty's subjects at home and in her empire abroad—to say nothing of its being the religion largely professed in all the civilised communities of the world.

It has been, indeed, charged that the Dreyfus proceedings were the result of a *complot* between the heads of the army and what are called the clericals.

I have inquired into this allegation, and I think there is no foundation for it. It is quite true, unhappily, that so-called religious papers, like *La Croix*, have written abominably against Dreyfus, just as avowedly non-religious papers have done; but I do not think there is any ground for the suggestion that the prejudice against Dreyfus was at all considerably accentuated by the fact of his being a Jew. That the Jews are unpopular in France is undoubted; but it is equally true that they are unpopular in Germany and in Russia, and indeed in most countries where they reside, but assuredly not on religious, but on racial and social grounds.

It seems to me that the foreign Press, in its comments, has not rightly interpreted some of the phenomena which public opinion here has presented, and has not taken into account, to soften the harshness of its judgment, the general considerations to which I have referred.

When one recollects how comparatively small is the number of persons who form independent judgments of their own on a matter like this, when you bear in mind how insensibly your opinions are formed from those with whom you talk, amongst whom you live, from the newspapers you read, it would be surprising if, in the circumstances to which I have adverted, the French people as a whole had not originally accepted the idea of Dreyfus's guilt; and looking to the support, from persons in authority, it had received, it would have been remarkable if they had not, for a long time at least, clung to that opinion.

But, I agree, we have now reached a different phase of the question. I think the conscience of the French nation ought now to be wide awake and alert; and I

think the facts now disclosed are of such a startling and significant character that it is impossible any longer for honest men to repose faith in the implicated heads of the army or to acquit them of treachery and duplicity.

Even from the comparatively small opportunities I have of observing the trend of public opinion by actual conversation with people here, I do observe a change decidedly for the better; and I think that change is manifested in a striking manner by the fact that, even amongst the most violent opponents of Dreyfus in the French Press, there is a tacit acquiescence in the suggested free pardon which it is said the Government intend in a short time to grant to the condemned man.

The revelations touching Esterhazy, the counter-plotting by the État Major against Picquart in his attempts to ascertain the true delinquent, the contrivances resorted to touching the second Conseil de Guerre, the truculent behaviour of the generals (prominently Generals Mercier and Roget) have made most men, formerly confident of Dreyfus's guilt, doubt their former opinions. So much in general.

As to the members of the Conseil de Guerre at Rennes, in considering their proceedings it is to be recollected that they were administering a system which was theirs, and that that system is not ours. For instance, by the laws of evidence prevailing in France, and indeed in all the countries in Europe in which the Roman Civil Law or the Code Napoléon (largely founded on the Civil Law) prevails, much looser statements are permitted to be given than English law recognises as evidence. An example of this relates to hearsay evidence. For instance, it is allowable in a

French witness to state what some third person has informed him as to the acts or conduct of the accused touching his guilt, and probative effect is given to such statement. In England, on the other hand (except in a very limited class of cases), such evidence would be rejected. Again, witnesses are allowed, largely because of the preceding rule, to give their evidence very much in the nature of a speech or address. Again, that invaluable test of truth, namely, the right of direct cross-examination of witnesses, is not permitted before these tribunals, and only such questions as the presiding judge permits are put, and they are put by him, with the result that they are comparatively ineffective.

These considerations explain what must have struck the English reader as the extraordinary line of conduct permitted to Generals Mercier and Roget, amongst others, to make, in their supposed character of witnesses, nothing short of unscrupulous, mean, and vindictive speeches for the prosecution. I do not think, however, that the same amount of license would have been permitted to them before a tribunal presided over by a superior judge in a civil Court.

Perhaps the most remarkable feature in the eyes of a lawyer of the Rennes proceedings was the want of accord in the lines of defence pursued respectively by Maître Demange and Maître Labori. The former, both in his cross-examinations so called, and in his final speech, appeared to aim at saying and doing nothing which could ruffle military sensibility ; in other words, he dealt with the evidence as it was given, as if it were honest, reliable evidence, without casting any reflection upon the conduct and character of the persons who gave it,

and confined himself to the thesis—that, accepting such evidence, the guilt of Dreyfus had not been established. On these lines, the speech of Maître Demange was an able analysis of the evidence, and an able and eloquent exposition of its weaknesses and shortcomings. This was a course which, in my opinion, was only justifiable provided it was likely to succeed. It may be that it was a powerful factor in securing the adhesion of the two dissenting members of the Court, and in obtaining the assent of all the members to the finding of extenuating circumstances, and to the recommendation against inflicting upon the condemned man a further public degradation. At the same time this course of defence had this consequence, that the speech of Maître Demange was, in a certain sense, unreal: it sounded in my ears too much like an appeal for mercy, and it did not deal with the considerations touching the conduct of the members of the Etat Major, which most strongly went to accentuate their *mala fides*. In fine, it contained little which may be said to constitute an appeal from the judgment at Rennes to the great tribunal of public opinion outside that Court.

On the other hand, Maître Labori attacked, and, as I think, justifiably attacked, the witnesses in his cross-examinations; but, in the opinion of many, this course, so far as the decision of the Rennes tribunal was concerned, was injurious to the interests of Dreyfus. These, however, are matters of speculation, upon which different minds will take different views.

As to Dreyfus himself, I was disappointed. I was full of pity for him, and entered the Court with every desire to be impressed by him; but I was not. He

does *not* impress one favourably. He is mean-looking, with a hard, unsympathetic face; and, so far as expression goes, I must reluctantly admit that there was no openness, frankness, or nobility in his expression. He did, I think, display a great deal of dignity in the passionless immobility with which he, almost throughout the entire proceedings, listened to the injurious and, as I believe, often lying statements launched against him.

As to his judges, I had not an opportunity of personally seeing their demeanour while witnesses were being examined. But I must add that the reports of the previous proceedings seemed to show that a greater license was given to the witnesses against Dreyfus than to those called for him, and that the intervention of the generals was allowed without limits, while the advocates of Dreyfus were not infrequently prevented putting questions which seemed directly relevant to the inquiry. I only saw them during the two days occupied by the speech of Maître Demange. So far as appearances went, it is fair to say that nothing could have been more decorous or dignified than their demeanour. They were respectful to the advocate, and they appeared to follow closely the points which he made, taking notes from time to time. I see no reason whatever to doubt that they were honest men, determined to do justice according to their lights.

The explanation of the erroneous judgment, as I conceive it to be, at which they arrived I take to be this: they were unversed in law, unused to legal proceedings, with no experience or aptitude to enable them to weigh the probative effect of testimony; they were steeped in prejudice and concerned for what they regarded as the

honour of the army; and thus, impressed or overawed by the heads of their profession, they gave undue weight to the flimsy rags of evidence which alone were presented against the accused man.

My view of the case may be expressed thus: If I had been trying it before a jury, while I could not have said that there was no evidence to be considered by the jury, I should certainly have told them that it was a case in which it would be utterly unsafe for them to convict. That there was some evidence, I think, cannot be doubted; amongst others, that as to the handwriting of the bordereau and that as to the alleged confession; but, on both points, it was of so utterly unreliable a character that I think no judge or jury could properly have acted upon it.

I am glad to learn, upon what I believe is good authority, that, with a view to a general appeasement, the Government do contemplate granting at an early date a free pardon to Dreyfus. Indeed, it is said that at a recent council the president stood alone in refusing to agree forthwith to this course. Although a pardon is no reparation to an innocent man, it will at least restore him to his family, and will give him the time and the leisure to work out, even to the satisfaction of his countrymen, still largely hostile to him, his complete vindication.

It seems to me that good may come for the world in general out of the sufferings of this man.

In the first place, I think it will render impossible the continuance of courts-martial, at least without more complete legal safeguards and control than now exist; and I think this will be a gain.

In the next place, I think it will bring home to the

Powers of the world the impossibility of continuing to use the services of their military attachés at foreign courts for the purposes of espionage. It seems intolerable that an officer in a noble service should be called upon to perform duties which in any degree call upon him to play the part of espion.

If I may put a concrete illustration, take the case of an intelligent and honourable man, like Colonel Douglas Dawson, military attaché to the Embassy at Paris. Is it not painful to think that, received on terms of equality in French society, enjoying their courteous hospitality, he is nevertheless all the time, according to his duty, playing the part, in a less or in a greater degree, of a spy upon France's military proceedings and arrangements?

For example, he might this evening be a guest at the table of Monsieur de Galliffet; and yet, upon returning to his rooms, he would, in the performance of his duty, be obliged to hold parley with a treacherous secretary of his host whom he found awaiting him, and who had brought him, for payment, a secret document of importance filched from the private bureau of his master!

I think it must be felt that, if espionage of this kind is to be kept up (and it may be necessary), it ought to be committed to the care of a different class of men, and that gentlemen in honourable service in the army ought not to be allowed to soil their fingers in its performance.

A final word. France is undoubtedly just now passing through the throes of a crisis. I think that, in the end truth and a sense of justice will completely reassert themselves. They are beginning to do so. It is not to

be forgotten that the rehabilitation of Dreyfus (almost complete in the eyes of the onlooking world) has been brought about mainly by the efforts of Frenchmen—Scheurer-Kestner, Trarieux, Picquart, and Cornély, and, with all his grossness and exaggeration, the name of Zola ought not to be omitted.

It must be remembered also that recent proceedings cast no slur on the administration of justice in the civil Courts of the land; for surely it might have been predicated with certainty, that, if the revision trial had taken place before the Cour de Cassation (which is the highest Court in the land), Dreyfus would now be a free man.

RUSSELL OF KILLOWEN.

With this paper, and the following appreciation by Mr. Justice Jelf, I bring the chapters on Lord Russell's career as a judge to a close.

It has been stated that his greatest and best qualities were shown on the Bench. I know not how that may be, but it may, at all events, be said that, on the Bench as at the Bar, he was earnest, strenuous, conscientious. He threw himself fervently into the work, and was a moral as well as an intellectual power. His example was inspiring, his energy and downrightness were contagious. He was a driving force, and infused life and vigour into all who came within touch of his influence. But his capabilities were circumscribed by his opportunities, and he was struck down before the full measure of his powers as a law reformer and an administrator could be felt. Yet on the roll of English Chief Justices he will have an abiding place as a strong judge who

thought only of the faithful discharge of his duties, and as a remarkable personality whose commanding genius and irresistible will made him supreme among his compeers.

Mr. Justice JELF.—'It is probable that the late Lord Chief Justice will (whether justly or not, the following estimate may help to determine) be better known to history as a brilliant advocate than as a great judge. Several reasons contribute to this likelihood. The length and prominence of Sir Charles Russell's career at the bar, the number and notoriety of the *causes célèbres* in which he was engaged as counsel, the force and penetration of his cross-examinations, his eloquence, and the passionate earnestness which he threw into his addresses to the jury gave him for many years a position of commanding eminence before the public. But, although his time on the Bench was not long enough to enable him to make any very decided mark on the law reports, while moreover the multifarious interests and occupations of his overcrowded life had perhaps prevented him from attaining absolutely to the front rank as a lawyer, yet those who were privileged to practise before Lord Russell of Killowen as Lord Chief Justice of England recognised in him from first to last judicial qualities of the very highest order, and particularly a freedom from prejudice and partiality, all the more remarkable and admirable in one whose proclivities and predilections in religion and politics were naturally strong, and whose tendency to partisanship had been fostered by a long and successful career of advocacy.

'From the day when he took his seat for the first time

upon the Bench, without apparent effort and by a kind of natural transition, he abandoned for ever the forensic strife for triumph, and threw the whole of his individuality into the far nobler pursuit of truth. And "truth" to him in this connection meant not any preconceived views of what ought to be the result of inquiry, but the loyal adaptation of the law of his country as he understood it to the facts which he bent the whole force of his powerful intellect to grasp and to elucidate. His was a splendid conception of duty, and on the whole splendidly carried out. To not a few the great advocate in his zeal for his clients had seemed not unfrequently to overstep the fair limits of cross-examination and to show a want of consideration for the feelings of the parties or the counsel opposed to him. To such as these the attitude of the Chief Justice on the Bench presented itself almost as a revelation, and the eagerness with which as time went on counsel, solicitors, and parties vied with one another in their desire to have their cases tried by him testified to the general confidence which they felt in the perfect fairness of the trial which they would thus secure. What, then, were the external methods adopted by Lord Russell of Killowen in the exercise of the great trust so worthily reposed in him?

'First, stress should be laid upon his admirable punctuality. Suitors and practitioners soon found that the new Chief Justice took his seat on the stroke of the clock; a habit of inestimable value to all concerned, especially to counsel, and which gave a business-like character to the whole proceedings. Next should be observed his extraordinary attentiveness. Lesser judges have been apt to think they could pick up the threads of

a case as it went on without following all the details from the beginning. Not so Lord Russell of Killowen. From the moment when the jury were sworn till the verdict was given and judgment pronounced his attention never flagged or wandered. He listened to every word of the opening speech, and insisted on understanding every point as it arose and grasping every phase of the case as it proceeded. Nothing escaped him, and his notes were always clear, complete, and accurate.

'Moreover he was "no respecter of persons." The merest tyro in the profession, if only he showed intelligence and knowledge of his case, was sure of being listened to by the Chief Justice with the same appreciation as one of the leaders of the Bar. His summings up were condensed and masterly. In short, a trial before the Lord Chief Justice was a lesson of the utmost use to the younger members of the profession who daily flocked to his Court to learn how a case ought to be conducted. His industry was marvellous. Often he was in attendance at the Royal Courts, long before the sittings for the day began, studying the pleadings and the authorities bearing on the cases which were to come before him.

'Such was Lord Russell at *nisi prius*. Nor was his thoroughness less conspicuous in cases conducted before him without the intervention of a jury, nor when he sat with his colleagues to decide questions of law in a Divisional Court or in the Court of Appeal. His judgments and summings-up constantly exhibited remarkable literary excellence. No slipshod phrase, no unfinished sentence ever disfigured his utterances on the Bench; while the logical force of his remarks was brought home

to all who heard him by the impressive earnestness of his delivery.

'Nevertheless it would be idle to deny that Lord Russell's manner on the Bench was open to criticism. His chief fault was a kind of intolerance of stupidity, prolixity, or inaccuracy, which led him at times unconsciously to do injustice both to counsel and witnesses. He seemed unable to make allowance for the inferior mental capacity of those with whom he had to deal. He was also too apt to think at certain stages of a case that he saw enough of it to make it right for him to press a premature compromise, or to insist on a certain line being taken which unduly hampered one side or the other. His object was always to do justice, but his strength of will and masterfulness made him at times dictatorial. Ready as he was to devote whatever time he considered necessary for the elucidation of truth, he could not bear waste of time or repetition, and would show his impatience thereat by a peculiar mechanical habit of tapping with his pencil on the desk.

'There is a story that an eminent Q.C., now on the Bench, in the course of the trial of a case before Lord Russell once asked his Lordship to get "that noise of hammering" stopped, whereupon the Chief Justice, quite unconscious of the real cause of the noise complained of, sent for the Superintendent and gave orders accordingly. Soon after his departure the tapping recommenced, when the learned counsel exclaimed: "My Lord, the hammering has begun again!"

'The Chief Justiceship of Lord Russell of Killowen will long be remembered with gratitude and admiration by the profession of which he was so great an ornament

as a grand example of duty keenly appreciated and conscientiously fulfilled. Lord Russell, like most great judges, set aside technicalities whenever it was possible, and looked to the real substance of the matter in hand. He did all in his power to promote fair dealings between man and man, and to discountenance those dishonest transactions of secret commissions and the like which have cast so much discredit upon the commercial morality of our day, and against which, in conjunction with Sir Edward Fry, he laboured to provide a drastic remedy in Parliament.

'This slight appreciation of Lord Russell's judicial career would be incomplete without a passing allusion to the great services which he rendered to the country as one of the arbitrators at Paris on the Venezuela inquiry. The prominent and important part which he took on that memorable occasion would of itself qualify Lord Russell of Killowen to be remembered as one of the most distinguished judges of the age in which he lived.'

CHAPTER XVII

PERSONAL REMINISCENCES

Russell read little. He was too much of a man of action to be a man of books. Yet he knew his Shakespeare well. 'I remember,' says a friend, 'once travelling to Tadworth with him, and he quoted and talked Shakespeare all the way.' Asked by Mr. Charles Mathews what were the most perfect lines of poetry he could recall, he answered by quoting the following words of Lorenzo in the fifth act of the 'Merchant of Venice':

> Look how the floor of heaven
> Is thick inlaid with patines of bright gold:
> There's not the smallest orb which thou behold'st
> But in his motion like an angel sings,
> Still quiring to the young-eyed cherubins;
> Such harmony is in immortal souls;
> But whilst this muddy vesture of decay
> Doth grossly close it in, we cannot hear it.

When he was Lord Chief Justice, he presided on one occasion at a lecture. The lecturer (as he thought) took too much time in coming to the point; so he wrote on a slip of paper and passed it to me:

'Quite too much preface. I say with Hamlet, "Leave thy d—ble faces and begin."

'He *has* begun. R.'

While Russell was writing, the lecturer had come to the point. Afterwards Russell was much pleased with the lecture.

He was familiar with Moore's 'Irish Melodies,' and sang them. 'I remember,' says one of his sons, 'driving to a race meeting with father. We talked little, but sang duets—Moore's "Melodies."' 'Russell' (says a member of the Northern Circuit) 'used to sing the Irish melodies. I only heard him once. He sang "I saw from the beach when the morning was shining." He had a beautiful voice, and I have never forgotten the wonderful pathos he put into the words "Give me back, give me back the wild freshness of morning," &c.'

Thomas Davis was the poet and teacher of his youth; nor were the writings of the brilliant nationalist forgotten in maturer years. As a boy one of Russell's favourite quotations was, as we have seen, 'In a climate soft as a mother's smile, on a soil fruitful as God's love, the Irish peasant mourns.' And with those words he wound up his speech on the second reading of the Irish Land Bill in April 1881.

'"Vanity of vanities, and all is vanity,"' said one of his sons philosophically, on finding that a 'skilful' *coup* at cards did not produce the desired result. 'Can you finish the chapter?' asked Russell, referring to Chapter I, Book I, of the 'Imitation of Christ.' 'No,' said the youth. 'Then I can,' said Russell, and he dashed it off with the utmost facility. Wherever he went, he carried two books in his hand-bag—Locke 'On the Human Understanding,' and the 'Imitation of Christ.' He liked novels of excitement; 'Monte Cristo' was a special favourite. He read Gaboriau's books, dipped into Tolstoi and Tourgeneff,

and once, when he was ill at Leeds, he got his chief clerk, Mr. Block, to read the 'Adventures of Sherlock Holmes' to him.

But Russell was not a man to come away from work and to fling himself into an arm-chair and read a novel, a biography, or a history. Whatever he did pointed in the main to action. If he read at all, it was with a view to some practical end. When he was Attorney-General, he applied himself to the study of international law because he had to advise on questions of foreign policy. But when he ceased to be Attorney-General he flung international law to the winds until he had to deliver his Saratoga address. He was on one occasion introduced to Mr. Stanley Weyman. He wished to be civil to that distinguished author, so he said: 'My young people, Mr. Weyman, speak constantly of your books, and tell me I ought to read them. I have read your "Prisoner of Zenda" with much pleasure.' 'Oh! that's the other man,' said Stanley Weyman.

'Godolphin,' says Macaulay, 'was not a reading man. Whatever time he could spare from business he was in the habit of spending at Newmarket or the card-table.' 'Chatham,' he says, 'knew nothing accurately except Spenser's "Fairy Queen."' 'I cannot read a page,' said Walpole. Lord Althorp probably preferred a well-bred 'short-horn' to all the glories of the great library that once bore his name. 'The only book, I think,' says Lord Rosebery, in his address on 'Statesmen and Bookmen,' 'mentioned in Lord Palmerston's correspondence is "Coningsby."' 'I never saw him,' says a member of Parnell's family, 'read anything but "Youatt on the Horse."' Russell, too, belonged

to the category of famous men (far larger than is commonly supposed) who neither found, nor pretended to find, any real solace in books. He played chess, and, in his own words, took the 'keenest interest' in the game. He was fond of music and pictures, and delighted to steer a boat in a gale of wind. 'I remember,' says a friend, 'when Russell used to stop with me in the West of Ireland it was his delight to go out in a fishing-boat when even the fishermen had no relish to face the storm.'

His chief distractions, however, were card-playing and horse-racing.

At cards, Mrs. Battle herself did not love the 'rigour' of the game more strongly. He liked it for its own sake; the stakes came in by the way. The attraction was in 'playing,' not in 'gambling.' The story is told that on one occasion he sat up at Tadworth until six in the morning, playing cards with his sons. 'Father and Sir Frank Lockwood,' says one of his daughters, 'used to play poker with me and my sister when we were very young, and with the governess in the nursery. They used to win our money, which greatly upset us. But we used to find it in our room when we woke in the morning, so we did not much mind being beaten by father and Sir Frank Lockwood.'

After a great case and a great triumph, the solicitor who instructed Russell felt so excited that he could not settle down to work or go quietly to bed; so he went off to the Portland Club to play cards. He had not been there long when the junior counsel came in, and then Russell appeared. They all came for the same reason.

They wanted to get the case out of their thoughts, and 'whist' was the best prescription. 'His hardest period of work,' says one of his 'devils,' 'so far as I know, was during his first Attorney-Generalship. He sat up in the House far into the night, and was always at chambers at 8.30 in the morning. I remember asking him, one afternoon as we were walking down to the House of Commons together, whether he did not find the late hours in parliament and the early hours in chambers too much for him. His reply was, "There's compensation, my friend, in all these things. When poor old Benjamin was alive, I often did not get to bed before six; we used to play cards all night."'

An American was once travelling from Paris to Nice. On entering the compartment in which he had secured a berth, he found a man in possession. 'Are you Mr. ——?' said the stranger. The American answered in the affirmative, somewhat surprised. 'Ha!' said the stranger, 'I inquired at the booking-office who was to be my travelling companion.' 'I quickly realised,' says the American, 'that I was with no ordinary man; his language was well chosen, his knowledge of things in general and his fund of information were extraordinary; but what I wished to resent and found impossible was the evident desire of my unknown acquaintance to make me do just what he liked, quite regardless of what my tastes and inclinations might be. He positively hypnotised me. On returning to our compartment he suggested that we should kill time by a game of cards. I made some kind of excuse about being a poor card-player; whereupon he laughed and said, "What, you,

an American, a poor player! I won't believe it. Come, let's play poker for a shilling only." I was unwilling to play cards with a stranger, and replied somewhat frigidly that I did not care to play at poker. "All right," he replied, "we will play any game you prefer." This answer fairly cornered me, but I hoped to avoid playing by proposing a French game very little known out of France. "Good," said he; "we will play it for a shilling a game." "But," I asked, "do you know how to play it?" "No," was the answer, "but you can teach it to me." This remark made me suspect that the man was an expert card-player, who knew every game ever played; but I realised that there was no way now of refusing, and so I resolved to play very cautiously, and to leave off the moment I detected anything wrong, or as soon as I had lost more than a reasonable amount.

'"But we have no cards," said I, thinking to get out of my difficulty. "But I have," said he, pulling out a pack. This act confirmed my suspicion. However, I was in for it, but I made up my mind to watch every move of my companion.

'After I had explained the game, apparently to an indifferent listener, we commenced. So absorbed was I in watching his every movement that I neglected to play properly, made the most stupid mistakes, and completely gave game after game away. Fortunately I was released from my misery by the porter announcing bed-time, and so we had to finish our card-playing. He won and I lost a nominal sum. My companion greeted me next morning in the most affable manner, and proposed that we should play another game after breakfast, saying

that he insisted upon giving me my revenge. I told him I had a bad head-ache ; but it was useless to try to fight against the dominant power of this remarkable man ; I meekly acquiesced, with the result that he won again. It was with positive joy that I found we were rapidly approaching Nice, and just as we were entering the station my companion said, "I am going to Monte Carlo, where I shall be glad to see you ; here is my card," on which I read with positive amazement the name of "Sir Charles Russell." '

He liked walking, riding, and the theatre. He was, indeed, a regular 'first-nighter.' The sort of play which pleased him best was a simple drama founded upon some story of deep human interest. In the old days he would sit in the pit, and tears would stream down his face while some pathetic piece, at whose 'situations' the cynical critic would smile, 'held the boards.' His simplicity, like his strength and his courage, was always in evidence.

He was ever ready to help a friend. James Payn and Russell became acquainted in the early seventies, and met occasionally at the luncheon table at the Reform Club. On one occasion Payn wanted legal help in writing a novel. He mentioned the matter to Russell, and Russell told him what the law was. Payn used to say no doubt it was plain enough to a lawyer, but it seemed Greek to him. Russell saw that he did not quite understand it. A day or two after Payn received a long and carefully written opinion from Russell making everything so clear that he was able to grasp it. He often said that, of the many kind acts he had experienced in his life, he thought it was the kindest.

He liked to see a boxing match, and could himself use the gloves with effect. 'When I was in New York with Russell in 1883,' says a friend, 'his whole anxiety was to see a boxing match.' 'Father,' says one of his sons, 'would sometimes sit for an hour at a time to see us with the gloves on, and the harder we hit each other the more he enjoyed the fun.' 'I have had a fight with another boy,' writes another of his sons when a lad at school, 'exactly my age, and I won too, for I gave him a whack on the mouth which silenced him at once.' We have seen that Russell knocked down his opponent at Dundalk in 1880. Upon another occasion he knocked down a railway porter under the following circumstances. He had been retained as a junior by the London and North-Western Railway Company in a County Court action at some out-of-the-way place on the line. When the business was over he wanted to get back quickly to London. But no train stopped that evening to take up passengers at the place in question. The night mail did, however, stop to take in water. Russell got a letter from the station-master authorising him to travel by the train. The train stopped for a few minutes. Russell arrived at the station just in time to catch it. He rushed for the door. A burly porter intervened, and said, 'No, you don't get into this train, it don't take no passengers.' Russell tried to explain. The porter would not listen. The whistle blew, there was no time for parleying, so Russell knocked the porter down and jumped into the carriage. When he reached London, he explained the circumstances to the secretary, and sent the man a sovereign.

He was once travelling by train from Newmarket to

London. A powerful-looking man—clearly a betting man—got into the same carriage. As the train moved away from the station, the man opened a bag and took out a pair of slippers. He then proceeded to take off his boots. 'What are you going to do?' said Russell. 'To take off my boots,' said the man, 'and to put on these slippers.' 'I object strongly to your doing anything of the kind,' said Russell; 'it's a most offensive proceeding.' 'I suppose I can do what I like with my own boots?' said the man. 'Not in a public conveyance,' replied Russell; 'you have to consider the feelings of other people.' 'Well, I am going to take off my boots,' said the man, 'and to put on these slippers.' 'And if you take them off,' said Russell, 'I'll fling them through the window.' The man laughed, and took off the boots; but they were through the window before he had time to get into the slippers. He was furious, but he had to grin and bear it, telling Russell that he would 'take the law of him.' After an hour's run the train stopped, the man got out to have refreshment, and when Russell saw him walking on the platform in his slippers, he was suddenly stricken with compassion. 'Sir,' said he, when the man came back to the carriage, 'I apologise for what I did; it was very wrong, and I am sorry for the inconvenience I have caused you.'

'Sir,' said the man, 'you cannot do more than apologise. We shall forget the incident'; and they then chatted away as if nothing 'untoward' had happened until the train reached London.

Russell once got a Roland for an Oliver from a cabman at Manchester. He and his junior were going to have a 'view.' This particular afternoon Russell was in

a very disagreeable mood. Things had not been going well during the day. The cabman was a big, powerful, athletic-looking fellow. On approaching the cab, Russell, as was his wont, closely scanned the horse and the man. 'Why,' said he, 'a big powerful fellow like you ought not to be driving a cab; you ought to be doing something else.' 'What the hell is it to you,' said the cabman, 'what I do? Get into the cab and mind your own business.'

Russell sometimes enjoyed public dinners. He was not, certainly, a good after-dinner speaker; yet on one occasion, at all events, he made a decidedly humorous 'hit.'

It was at a dinner given in 1898 to Sir Anthony Macdonnell, Lieutenant-Governor of the North-West Provinces and Oudh. Russell said:

One cannot but have felt to-night that, although at this board there are, I am glad to know, distinguished men who are Englishmen, and distinguished men who are Scotchmen, yet the great bulk of the gentlemen present here are, like you, Sir Thomas Moffett, and like myself, Irish, and we have, it seems to me, been indulging—I do not think unjustifiably indulging—in a little self-gratulation and jubilation—'flapping our wings' perhaps. Well, we do not so often get the opportunity of doing that. I recollect Mr. Russell Lowell telling me a story, which I always thought had some significance in it, of a distinguished American politician who, after a presidential election, in which his candidate had been ignominiously defeated, and defeated largely by the Irish vote in America, called upon Mr. Lowell. The visitor ventilated his grievances, speaking with no sparing tongue of what he considered to be the misguided action of our fellow-countrymen across the Atlantic; and Mr. Lowell pro-

ceeded to talk on indifferent subjects. At last he said, 'And where are you going to spend your holiday?' 'Well,' said his visitor, 'I think I shall spend it in Ireland.' 'In Ireland!' said Mr. Russell Lowell, 'after all the abuse you have been lavishing on the Irish?' 'Well, I guess,' was the reply, 'that is about the only country in the world where English is spoken *where the Irish don't rule.*'

In 1894 he also made a humorous speech at Trinity College, Dublin:

My tutor, a man of signal ability and, in those days, of great promise, was Dr. Kells Ingram, whose extreme modesty had, I cannot doubt, prevented the complete fruition of the early promise which he gave. Dr. Kells Ingram was then, as now, remarkable for having written one of the finest ballads that are to be found in the English language. It was a rebellious ballad called 'Who fears to speak of '98?' That gentleman was my tutor, and for several years I pursued my studies, with more or less disadvantage, till I attained my senior year, and then I ran away. I wish to say, however, I did not run away under circumstances which would have justified my being pursued. I ran away to join the Bar of England and to get married, and I did that before or about the time I ought to have had conferred upon me the degree of my *Alma mater*. That was the first breach in my title. It has been somewhat repaired, because no later than last year I had conferred upon me by the Senate of this distinguished University the title of Doctor of Laws—conferred upon me for what was called *honoris causa*, which, I believe, being freely translated, meant, 'in the absence of any distinctly scholarly merit.'

Upon one occasion Russell, speaking at a public dinner, and referring to a recent decision of the Court of Appeal overruling a decision of his own, said in the

presence of one of the Lords Justices: 'I will say here what I never said in another arena, "Thank God there is a House of Lords."'

In 1898 he delivered an inaugural address at the Epsom Literary and Scientific Society, an extract from which may also be quoted as containing an interesting reminiscence of his early life:

There is a story told of—and indeed, I believe, also told by the late Professor Huxley—which runs somewhat in this fashion. Professor Huxley was attending a meeting of the British Association in Belfast, and, finding himself late for a dinner engagement, jumped on an Irish jaunting car, and told the driver to drive like the devil. The man immediately proceeded to lash his horse into a gallop. In a moment or two Professor Huxley asked him, 'Do you know where you have to go?' 'Begorra I don't,' replied the man, 'but sure I am driving like the devil, anyhow.' The point of the story lies in its application. We are here engaged in starting the Epsom Literary and Scientific Society on its career, and it is desirable to know where we are going, what our aims are, and how those aims are to be accomplished. What are the difficulties—if there are difficulties, which is probable?

In my native town of Newry they have several societies of this kind. The people of Newry think a good deal of themselves, and with more or less justification. They are principally remembered for an epigram written about them, or rather the town, by Dean Swift once on the occasion of a visit to it. It runs thus:

> High church and no steeple,
> Dirty streets and proud people.

Well, it was in that town, which I do think has some literary flavour about it, that my earliest ventures in connection with a literary society began, and I hold

myself up as a warning to you not to be too ambitious. In that town a dear and esteemed friend of mine, of high ecclesiastical attainments—but my friends would not accuse him of great acumen—the late Dean Bagot, a man well known in Ireland, once suggested a subject for discussion at such a society. The subject was 'The age we live in, its tendencies and its exigencies.' Could any one suggest or frame a wider subject? Well, the great majority of the members were, like myself, lads of fifteen, sixteen, and seventeen years of age. In what Dr. Johnson called the intrepidity of ignorance we attacked the subject manfully. I recollect that I laid the Crescent flag in the dust, never to rise again among the flags of the world, played havoc with several venerable dynasties, and introduced land and other reforms which even in these days, when all men of all parties are more or less leavened with Radicalism and Socialism, would certainly be regarded as sweeping. Although the essay succeeded, and subsequently rose to the dignity of letterpress, I am happy to say that even my family archives does not contain a single copy to rise up in judgment against me in my old, and I suppose wiser, days.

'One secret of Russell's success,' says a friend, 'is that he throws himself with energy into everything he does, even if it is only a public dinner. Take him at one of these dinners given, say, for the benefit of some benevolent society. You see Russell sitting down with the president or secretary by his side. Well, all the time he is taking notes for his speech, asking these officers questions about the society's history and affairs—working up the whole business as if it were a "case." These officers have a bad quarter of an hour until Russell has delivered himself.'

Russell was always intense; and his intensity and

mental concentration occasionally led to embarrassing results. 'In the course of getting up the case for the government,' says Lord Robert Cecil (who was in chambers with him), 'in the action brought by Mr. Nobel against them for infringing his patent by the use of cordite, Russell, then Attorney-General, went down to Waltham Abbey to see cordite manufactured. Cordite is a compound of nitro-glycerine and gun-cotton, and the mixture of these two explosives is an operation of some difficulty. Great precautions are necessary to prevent the slightest risk of the nitro-glycerine being accidentally exploded. At that time the mixing was done in a small hut about eight feet square, into which only the men engaged in the work were admitted, and they were dressed in a distinctive dress and wore felt slippers to minimise the danger, if any of the nitro-glycerine should be spilt. Russell and his party were brought to the hut door, and the process was explained to him. He asked some questions, and then to enforce his meaning began, with characteristic emphasis, to gesticulate with his umbrella *inside* the hut. The explosiveness of the substances, and the certainty of annihilation if they did explode, were forgotten in the desire to obtain information.

Anent Russell's 'humour' a 'devil' writes: 'Probably he was deficient in humour, but he was not wholly without it. When the rhyme was a new one, I remember repeating to him :

> There was a young lady of Riga,
> Who smilingly rode on a tiger;
> They returned from the ride with the lady inside
> And the smile on the face of the tiger.

'He did not seem at all amused at the time, but next day told me that he had used it with excellent effect in a speech at a meeting, as an illustration of the political situation, the tiger being the Conservative party, and the Liberal-Unionists being represented by the young lady.'

In an article in the *North American Review* on Lord Coleridge, Russell told two good stories:

Mr. Karslake, afterwards Sir John Karslake, was Mr. Coleridge's great rival at the Bar; they were great friends as well as great rivals. Both were men of fine presence, Mr. Karslake, however, being the taller. He was once described in a Western Circuit paper as 'rising at great length' to reply on the part of the plaintiff, and a story is handed down from the time of Lord Chief Justice Campbell (for the truth of which I do not vouch) in connection with him and Mr. Sam Joyce, who was as remarkably short as Mr. Karslake was remarkably long. It was motion day in the Queen's Bench, and on Mr. Joyce's rising to address the Court, with his head just appearing above the bench in front of the Bar, Lord Campbell said:

'Mr. Joyce, when counsel address the Court it is usual for counsel to stand up.'

'My Lord,' protested Mr. Joyce, 'I am standing up.'

A little later Mr. Karslake rose from a bench at the back of the Court, which sloping upwards gave him even greater apparent altitude than he possessed. Thereupon Lord Campbell is said to have remarked:

'Mr. Karslake, although it is usual for counsel to stand up when they address the Court, it is not necessary for them to stand on the benches.'

. . . . . .

Lord Coleridge was a good deal bothered by that product of the nineteenth century, the interviewer, and on his way to Chicago one of these gentlemen, failing

otherwise to draw him out, began to belittle the old country in the matter of lakes and rivers and mountains, and even men. Lord Coleridge bore it all patiently; finally, the interviewer said: 'I am told, my Lord, you think a great deal of what you call your great fire of London. Well, I guess that the conflagration we had in the little village of Chicago made your great fire look very small.' To which Lord Coleridge blandly responded: 'Sir, I have every reason to believe that the great fire of London was quite as great as the people at that time desired.'

Apropos of humorous incidents in Russell's life, two stories are told, one of which is certainly true. He was, so it is said, on one occasion asked what was the punishment for bigamy, and he answered, 'Two mothers-in-law.' The true story is: a prisoner was addressing the Court in his own defence. Russell did not at one point quite catch what the man said. 'What was your last sentence?' he asked. 'Six months, my Lord,' was the answer.

A friend has sent me the following communication:

'We live in a time when humour is thought to be an almost essential quality, and on every side you may hear excellent good fellows, as destitute of it as the Apostle Paul, asserting that they cannot live without humour; that they must have it, and so on. In this matter of humour Russell did not supply the age with its known wants. He was not a humourist either on the Bench or off it. It never occurred to him to be one, and he would have found it difficult to set about it. He had no twists and turns in his composition. Irony he did not readily comprehend—he found other methods of destruction readier to his hand. Badinage had to be pretty blunt before he

grasped what was intended. Poking fun at himself and his own feelings, paradox, extravagance, the play upon words and phrases, odd similitudes, fantastic contrasts, were not within the original specifications for the plain and massive structure of his intelligence. But Russell was sympathetic towards other styles. I have seen him sitting at a table where humourists were supposed to abound, where badinage was at least freely attempted, silent indeed, but greatly amused, and wearing upon that countenance of his the expression one sometimes notices on the faces of those who perambulate Zoological Gardens—an expression of admiration and amazement, and perhaps a suspicion of another sentiment. He was a great addition to any party—for, quiet as he was, he seemed to fill the room, and no company could be insipid if Russell were of it.

'When his emotions were stirred by some strong and primitive feeling, he was an unrivalled narrator. I once found him reading the depositions in a murder case he was shortly to try. As a matter of history, no conviction followed, proof being wanting that the child whose life was lost had died a violent death; but Russell, when I saw him, was not trying the case, or in any way judicially determining it; he had only read the depositions, and was moved to the depths of his nature by the story there recorded, which he proceeded to tell me. As he told the story, it all turned on this pivot, that the woman who was accused of the murder, and admittedly had concealed the death, having a strong motive to get the child out of the way, had taken all her steps and laid her plans with such judgment, care, and foresight, that, had she not forgotten one thing, she must have escaped detection. "And what

was that?" asked Russell, devouring me with his glance and with an uplifted hand—"What had she forgotten? Herself stony-hearted, she had forgotten the love her own little child would be almost certain to inspire in the breasts of those to whom she had for fee and reward entrusted it. She forgot Human Nature! The poor folk from whom, without notice, she took the child on the long railway journey it never survived were greatly distressed. She did not think it worth her while to write them a letter, telling them how the child had borne the journey, and sending them from it any little message of affection. After a few days their suspicions became excited; they began dwelling upon this circumstance and upon that, until finally they communicated with the police of the place whither the child had been carried, with the result that its body was found buried in the garden of the house to which it had been taken." Russell told this story after a fashion that would have rejoiced the heart of Sir Walter Scott.'

Russell was not a good conversationalist, though, as my friend has shown, he could on occasion tell a tale well. There was, however, one characteristic of his conversation which must be noted. It was never broad or coarse, and no man ever told a loose story in his presence a second time.

Like many distinguished English statesmen, Russell's favourite pastime was, beyond all question, horse-racing. He liked a good horse and a good race; and the excitement of the sport gave him more genuine relaxation than anything else. On the Turf as everywhere his personality was felt. He was an authority. 'I think, on the whole,' says a friend, 'that he was less authoritative on the racecourse than in the Courts of law, though,

as is pretty well known, he was hardly less of an authority.' It may safely be said that any trainers, jockeys, or bookmakers whom Russell did not know, were not worth knowing; and he was very popular with them all. On the Turf as elsewhere he hated affectation, and the 'book' authority who gave himself 'airs' was not spared.

'On one occasion,' says a friend who attended many a racecourse with him in the early days, 'there joined us, at our lodgings at a racing town, one who had a reputation as the great "book" authority on racing of the day—i.e. the man who best knew—after the actual official handicappers at least, if not before—the different weights at which all the horses in training had previously run together, and the number of pounds which would turn the scale of victory or defeat when they should meet again. He was an amateur handicapper, though knowing and caring less about horses than weights. When, therefore, we met at dinner and discussed the next day's "card," he began to hold forth with irritating authority on all these conundrums of book lore, and many of them—even his statements of fact, not merely of judgment—were instantly controverted by Russell. Moreover, the "book" was referred to, and Russell proved invariably right; and I remember his closing the discussion by saying, "My good fellow, you don't know anything about what you are speaking of. Pray don't say anything more." This was naturally too much for the acknowledged authority, and he quitted our party for a more subservient one the next day.

Russell had a wonderful eye for a horse; his observation and judgment in this respect were unerring.

'When,' says the same friend, 'we used go out on the training grounds at Newmarket to see the morning

gallops and trials, which we did every day before breakfast, Russell became instantly the centre of an admiring and miscellaneous group of the followers of racing—trainers, jockeys, newspaper men, and "touts," and sometimes even owners. Sometimes, too, the Keeper of the Heath would be there (not yet, however, clothed in scarlet); and I remember this official saying one morning at an autumn meeting, "Now, Mr. Russell, you know as much about this as any one: what horse do you think will win the Cesarewitch?" Russell looked about him, far and near, and discovered a horse galloping in his clothes, and being an immense way off. "Do you know what that horse is, Mr. ——?" he said, pointing him out. "No, indeed I don't, he is too far off," was the answer. "Well, that's ——," naming a horse of the day, "and I think he is the winner of the Cesarewitch." And Russell was certainly right about the identity of the horse—which is the main point, viz. his extraordinary observation of the shape and movements of a horse—and I am almost sure he was right too in predicting him as the winner of the great handicap.'

My informant continues: 'I remember once, before breakfast, we drove up in a cab to the Cambridge Road, and pulled up at a spot where we should have an excellent view of a trial for a great race, which we had heard was coming off on that morning. There were three of us, and presently one of a group of horsemen came riding furiously up to us, and ordered us peremptorily off, calling us "a party of d—d touts" among other opprobrious names. All but Russell were content to pass over the language, and to maintain that we had a perfect right to be there (as we believed we had); but

Russell was not one to sit down under the insult, so he issued forth majestically from the cab and said, "Sir, we are no touts. I am Charles Russell, and these are my friends—and—," naming us, "and we will have an apology for this insult." Our assailant rode off and we remained. Russell happened to be up for election at the time for the New Rooms at Newmarket, proposed by Admiral —— and seconded by a noble magnate of the Turf, and he lost not a moment, on returning into the town, in reporting the matter to one or both of them. The result was that an ample apology reached him in a few hours, and very shortly afterwards he was elected to the aristocratic Club, where he and his irate assailant became, in a very few days, the best of friends. Subsequently he became counsel to, and a member of, the Jockey Club itself, and he remained till the end of his life one of its most influential and respected members. The facility with which he gained an entry into English Turf society —the most exclusive in the world—and the influence and appreciation he obtained there, are one of the strongest illustrations of the many-sidedness of his character, and the power of his capacity and will. For no smaller man, with the ordinary equipment of one in his position, could possibly have achieved it, however qualified as a lawyer.'

Russell liked to spend a week at Newmarket, and to be up at cockcrow, and have a canter over the heath. Once he arranged with a friend who accompanied him that they should be up and out at 5.30 A.M. At a quarter-past five Russell was at the bedside of his friend. 'Get up!' said he. The friend grumbled and said it was time enough. 'Get up!' said Russell, seizing the water-jug, 'or I will empty this on you.' The friend got up.

'Russell always wished to be *doing* something,' says the 'devil' from whom I have already frequently quoted. 'The following record of a week's doings which I chance to remember will illustrate how untiring he was in work and play alike. The week in question was that of one of the Newmarket Spring Meetings. On the Tuesday night he travelled, after having been in Court all day, down to Newmarket; Wednesday he spent at Newmarket, and, immediately after the races were over, started for Stowmarket, where he was advertised to speak at a political meeting at eight. After the meeting he returned from Stowmarket to London, arriving at four o'clock on Thursday morning. All Thursday he was in Court, and in the afternoon again went to Newmarket, returning to London on Friday night. On Saturday morning he was again in Court, and Saturday afternoon, after the Courts had risen, was devoted to some difficult cases for opinion. While he was going through these, a telegram was brought into the room; he passed it to me, and I saw that the purport of it was that the funeral of some friend of his was to take place in Dublin on the next day. He said, "I think I will go," and thereupon sent to order a sleeping berth at Euston. He attended his friend's funeral in Dublin on the Sunday, arriving in London again early on Monday morning. All Monday he was again in Court, and, on the rising of the Court, started for Ely to attend a meeting in the evening at which he had promised to speak. In gauging the fulness of a week like this it must be remembered that each day spent in Court entailed careful preparation, and the mastery of at least one new set of facts.' Take another instance:

'Russell burnt his candle at both ends, the legal and the

political. Witness the way in which he once spent twenty-four hours. He was speaking in Court in London till past four one afternoon ; he came away from the case and caught the 5 P.M. train to Chichester. There he addressed a political meeting : after the meeting he dined and returned to town, sleeping at the London Bridge Hotel. Thence next morning he started in time to catch the newspaper train to Leeds, where 10.30 A.M. found him in Court, opening another, a heavy commercial, case which he had assimilated in London and on his journey to Leeds.'

At play or at work, Russell was always strenuous. Even at a dinner party he made one 'keep to the point.' I dined with him once at the Reform Club. It was a small party of four. The waiter poured some champagne into my glass ; I did not care for it, but was talking at the time, and did not stop him. Later on I asked him to get me some Irish whisky. 'What!' said Russell, 'are you not going to take your champagne?' I said, 'No.' 'Then why did you have it poured out? You must take it. I insist on it.' 'I assure you, Russell,' said a friend coming to my rescue, 'he never takes champagne ; I know it.' 'That's not the point,' said Russell ; 'why did he have it poured out?' I admitted that the argument was 'unanswerable.' 'Then drink the champagne,' said Russell. But I shook my head, and took the wine of my country.

'He never worried himself,' says the 'devil,' 'with his work, though few can have been more conscientious or more devoted to the client's interest. When he first became Attorney-General in 1886, the law officials of the Crown were still allowed to take private practice,

and I remember one day when he held briefs in five actions, each in a different Court, and each first in the list, subject to a part-heard case. At half-past ten he put on his robes, and waited to be summoned to the Court, which first disposed of the part-heard case before it. Time went on, but no summons came, and, as he knew his briefs and did not appear to be doing anything except writing a few words on a card which from time to time he put on the mantelpiece and looked at from a little distance, I suggested that he might take the opportunity of writing some opinions which were pressing. He said that he did not want to begin fresh work which he might at any moment have to break off, and continued to alter and rewrite the card. At last I asked him what he was doing, and he told me that he was trying to make out a list of the four best horses that had ever existed for a prize offered by the *Sporting Times*.

Like most men who make the Turf a pastime, Russell—in the early days—was sometimes 'hit hard,' and sometimes he 'hit hard.' 'But,' says one who probably visited all the great meetings in England and Ireland with him, 'taking his whole career on the Turf, there is no doubt but he was a gainer.'

He owned a few racehorses himself, and was, in a small way, successful with them. The first was Miss Shylock, bought in 1889, and leased to Lord Randolph Churchill. She won a race at Lewes in 1891, and lost at Sandown in 1892. She had two foals, Miss Jessica and Mercenary, both leased to John Porter the trainer. Mercenary won two races—one at Kempton and one at Hurst Park. He had many horses at Tadworth, and

among his greatest pleasures was to watch them and take care of them.

His comment on his last case at the Bar was couched in racing phraseology. 'How did you get on to-day?' his son asked him. 'Very well,' was the reply. 'I succeeded'; and then, after a pause, he added: 'I am glad my last mount was a winning one.'

CHAPTER XVIII

AT HOME

'My first recollection of father,' says one of Lord Russell's daughters, 'is a curly head on the floor in the nursery.' Nothing, perhaps, could give a better idea of Charles Russell's home life than the picture painted in these simple words. He loved children, he was always happy with them.

'Some time ago,' an acquaintance wrote to him in October 1885, 'my son was at a juvenile party at your house with his brother and sisters. He was too young to join in the dances, and you kindly took compassion upon him, and played some game in a corner with him. He came home enthusiastic over your kindness, and has never forgotten it, though it must have slipped your memory long ago.'

'It was to me,' says Lord Justice Henn Collins—referring to the time that he and Russell spent in Paris during the Venezuela arbitration—'it was to me pathetic to see this great man, whose personality filled not only the admiration of a single country, but one may say of the world, pausing after his work to talk to a child with the kindest sympathy and interest, and making arrange-

ments for her pleasure, and concerning himself to distract and amuse her.'

Russell's happiest hours were spent with his family; his wife and his children were his friends and confidants. With them only he wholly unbent. Their happiness was the object nearest and dearest to his heart. Surrounded by them, amused at their fun and merriment, laughing at their jokes and stories until the tears would run down his cheeks, he found in their midst the largest measure of enjoyment and comfort.

'I was always afraid of Russell,' says a member of the Bar, 'until I saw him with his family. You could not be afraid of him after that.' He was thoughtful, considerate, affectionate; rarely harsh, always unselfish. 'I only once saw him angry with any one,' says one of his daughters, 'and that was with Frank for letting a horse down'—a just cause, it will be confessed, for righteous indignation to a racing man. He made companions of his children, sympathising with their aims, promoting their wishes, sharing their amusements. With his boys he was as a boy, with his girls as a fond brother. He chaffed, and was chaffed by them all. Those who had only seen Russell with his war paint on, expected to enter a household where a stern father ruled a subdued family. 'I remember,' says a visitor, 'playing billiards with Russell and his boys. Russell played badly, but made one "hit." "A fluke!" cried out one of the boys; "The family stroke," said another. It was a revelation to me to see those youths chaffing their father, and Russell enjoying it.'

'One summer's evening,' says a member of the family, 'we sat on the steps [at Tadworth] listening to the boys singing. The boys asked father to sing, but he

would not. They pressed him, and then at length he sang. But they did not like the song, and they tried to stop him, but he sang on to the end.' He liked walking about the grounds at Tadworth, looking at the men at work, and making suggestions, which, perhaps, were not always, as he would say himself, 'relevant to the issue,' for he was not proficient in the arts of agriculture. However, on one occasion he scored off a youth who was taking things easily. 'I remember,' says his daughter, 'going through the grounds with father. There was a boy driving a machine. Father said he was not doing it quick enough. The boy said it could not be done quicker; and then father got on the machine and drove it himself to show the boy that more work could be got through in a given time than he got through.'

He did not wish any of his boys to smoke under the age of 21. He said to each, 'If you do not begin to smoke until you are 21, I shall give you ——' [naming a sum of money]. One of the boys yielded to the seductive influences of the precious weed, and smoked within the prescribed limit. He frankly confessed his fault.

Feb. 28, 1885.

My dear Father,—This is a letter for yourself, and not for the public, as you can gather from the 'private' on the envelope. It is about *smoking*. You may remember that we made an agreement together on that subject, which was as follows:

You first of all promised me 10*l.* if I did not smoke before I was 21. Then afterwards you said you would add 100*l.* more if I waited until I was 23—thus making in all 110*l.* As this is so important a sum, I thought it better—in fact necessary—to tell you of *three* occasions on which I, if not actually *broke*, at least infringed upon,

the terms of our agreement. [Having stated the 'occasions,' he concluded:] This is how we stand exactly. I thought it advisable to tell you the whole facts of the case, and then to ask you to send me an answer as soon as you can conveniently, telling me whether, in virtue of this, you consider the agreement broken and finished or not. . . .

Russell replied:

March 4, 1885.

My dear Boy,—I am very glad you have written to me, and openly, as you have done. I consider the agreement still stands. If there be anything in what has been done to entitle me to say it is ended, I elect to say it is *not* ended. As Arthur and Charlie (who are now great lawyers!) would say, 'If there has been a breach entitling me to rescind, I waive the breach. . . .'

Sometimes his letters were humorously laconic. One of his boys wrote from college for a cheque. Russell replied:

Dr. F.

Ck.

work

C. R.

Wedy.

In 1888 'Charlie' became a solicitor, and his father wrote to him from Karlsbad:

My dear Boy,—I've been thinking over some rules which I think you ought to follow in the more responsible position you now fill. They are not new, and probably have already occurred to you as wise.

1. Begin each day's work with a memo. of what is to be done, in order of urgency.

2. Do one thing only at a time.

3. In any business interviews note in your diary or in your entries dictated to S. H. Clerk the substance of what takes place—for corroboration in any future difficulty.

4. Arrange any case, whether for brief or for your own judgment, in the order of time.

5. Be scrupulously exact *down to the smallest item* in money matters &c. in your account of them.

6. Be careful to keep your papers in neat and orderly fashion. This you must be careful about, for I think you have a tendency to negligence.

7. There is no need to confess ignorance to a client, but never be above asking for advice from those competent to give it in any matter of doubt, and never affect to understand when you do not understand thoroughly.

8. Get *to the bottom* of any affair entrusted to you—even the simplest—and do each piece of work as if you were a tradesman turning out a best sample of his manufacture by which he wishes to be judged.

9. Do not be content with being merely an expert master of form and detail, but strive to be a lawyer.

10. Always be straightforward and sincere.

11. Never fail in an engagement made, and observe rigid punctuality. Therefore be slow to promise unless it is clear that you can punctually fulfil.

Follow these rules, and with your natural intelligence and good address I prophesy you can soon make yourself indispensable.

My dear Boy,
Your affectionate Father,
C. Russell.

All his letters to his children breathe a spirit of kindness, consideration, and affection.

My dear Boy (he says in a birthday letter to one of his sons),—A great triumvirate—your mother, May,

and you![1] Health and benediction to all three! I wish you, my dear Cyril, most heartily many happy returns of to-morrow, with all the success and worldly prosperity that are good for you. I know what you will desire most of all is continued health and happiness for Helen and the bairns. May God bless them! With love to them and to you, I am

Always your affectionate Father,

R.

On great festivals he was ever mindful of the members of his family, and always sent a word of greeting to those who were absent. At Christmas 1889 he wrote to Father Russell:

Tadworth Court, Tadworth, near Epsom:
Christmas Eve, 1889.

My dear Matthew,—A line of Christmas greeting. We all send love and best wishes for the coming year, and we ask your prayers and blessing.

The weather is awful—wind and rain—and most un-Christmas-like. Ellen is just this moment wishing you could be here to say Mass for us to-morrow. We are all, thank God, well and hearty. I feel as if I wanted a little rest. I am beginning to recognise the fact that I am not as young as I was.

My dear Matthew,

Your affectionate Brother,

C. Russell.

Russell never liked to 'puff' himself, but he wished his family to know what he was doing if he thought it would interest them. In 1881 he wrote the following letter to Father Russell:

My dear Matthew,—The new Governor of Madras, Mr. Grant Duff, kindly asked me to spend from Saturday

[1] The birthday of each fell on the same day.

to Monday at his country house a few weeks ago, and the Gladstones were also staying there. I had on Saturday a long talk with the Prime Minister *solus cum solo*, which lasted full three hours, and in which, strange to say, I had the greater part of the talk to myself, and was listened to apparently with an appreciative interest, which certainly astonished me. We renewed our talk next day—Sunday. His power of receiving new views was indeed remarkable. I did not lose the opportunity of expressing roundly the strong opinions I entertain as regards many things in Ireland, particularly its executive, and Government Board system of management.

I also, in particular, ventilated my ideas about the Land Bill, to many of which ideas effect has since been given. Indeed, I think I am entitled to say that in this matter I have rendered real and substantial service—far more than has met or ever will meet the public eye.

As to the Commission, I spoke very openly; but at that time Law was undoubtedly intended to be the judicial chief.

Of my amendments to the Land Bill many have been substantially adopted by the Government, and, with one exception, the rest have been partially adopted. The one exception relates to the amount of the advances, and the time for their repayment under the Bright clauses.

I feel that this letter is rather a puff of myself, but I also feel that you will like to have it.

My dear Matthew,

Yours affectionately,

C. Russell.

While on his first circuit he wrote the following letters to Lady Russell:

Lancaster: February 18, 1895.

. . . I am very glad, indeed, to get your letter, and find you are really better. It is very trying weather,

but, thank God, I keep very well. Do take care of yourself.

I am just now, before opening the Commission, awaiting the arrival of the Mayor and Corporation, who desire to pay me an honour similar to that paid me at Appleby and at Carlisle. I am *very* glad to hear you say you would like to be here, *indeed* I do wish you were; I think you would be gratified. The next time, I shall be upon a strange circuit, and the novelty will be worn off, but anyway I hope you will be with me, and share with me whatever of honour or of pleasure there may be. . . .

Liverpool: Tuesday, March 12.

. . . I have had a very trying day with criminals, an awful calendar, though, they say, not so bad as usual: 3 murders, 2 attempts to murder, 4 manslaughters, 10 stabbings, and no end of other abominable crimes. Some of the cases are very piteous, especially those of the women, poor souls. Dear wife, how glad I shall be to find myself at home once more! . . .

He was much affected by the death of friends or acquaintances. Indeed, he always regarded with feelings of deep reverence, and even of awe, the end of human existence. He never spoke of the dead without saying in a spirit of great devotion, 'May God be merciful to his soul!' and a shade of sadness would pass over his face. In 1898 Sir John Gilbert, a distinguished Irishman of letters, and the husband of his sister-in law—Rosa Mulholland—died. Russell's heart went out to Lady Gilbert in her trouble, and he wrote:

June 21, 1898.

My dear Rosa,—I hesitated to write to you in the first moments of your great sorrow, but a letter was not needed to assure you how much you were in all our thoughts.

After all, words of sympathy and affection avail little at such a time; but by-and-bye, when the sharp edge of your trial is ever so little lessened, you will find comfort in thinking of these, and still more in the recollection of the noble, simple, unselfish life of him whom you have, in this world, lost. I hope Ellen told you (as I wrote to her) how happy we shall be to have you with us when you like and as long as you like—the longer the better. Indeed, it would be a great pleasure to have you permanently with us—leaving you free, however, to go and come as you wished.

I am glad to see that on all hands Sir John's life and work are appreciated as they deserve. I hope none of his unfinished work will be allowed to perish altogether. What mysteries life and Providence are! How very sad, in our dull comprehension at least, to think of the stores of learning (owned by few, if any) which are buried in his grave!

I feel, my dear Rosa, that this letter will do little to serve its purpose; but I know you will find, in the end, peace and comfort in that quarter where the prayers of the heavy-burdened, humbly offered, are always heard.

My dear Rosa, always affectionately,
RUSSELL OF KILLOWEN.

Russell received a keen blow by the decision of his daughter May to enter a religious life. It was not an unnatural step for a member of the Russell family to take. As we have seen, all Russell's sisters became nuns; his brother is a Jesuit.

Yet the child's decision was a shock. Father and mother showed the good sense and reasonableness which at all times characterised their management of their children. They said, 'Let us hear no more about the subject for twelve months. If you are of the same mind at the end of that time, we shall consider the matter.'

She was of the same mind at the end of the twelve months, and father and mother then yielded readily, if sadly, to her wishes. Russell felt the separation deeply, and as he felt he wrote.

Royal Courts of Justice, 27 April, 1900.

My darling Child,—God's will be done! You have now taken the first serious step towards final retirement from the life of the world. The thought that it makes for your happiness, and that it is the will of God, softens the blow to your mother and to me—for blow it, beyond question, is to us—blow it is also, I know, to Lily (who has borne herself like the brave girl she is), and to Margaret also.

We hoped, selfishly in part, no doubt, but not wholly selfishly, to have your sunshiny nature always with or near us in the world—a world in which we thought and think good bright souls have a great and useful work to do. Well, if it cannot be so, we bow our heads in resignation. We know you will do your duty, as it comes to you to do, well and thoroughly and unselfishly; and we have no fear that you will forget us. After all, it is something for us, poor dusty creatures of the world, with our small selfish concerns and little ambitions, to have a stout young heart steadily praying for us. I know we can depend on this; I know also you will not forget your promise to me, should serious misgivings cross your mind *before* the last word is spoken. I rely on this. God keep and guard you, my darling child, is the prayer of your father,

Russell of Killowen.

With this beautiful letter, which reveals Charles Russell's heart more truly than could the words of any biographer, I close the chapter on his home life.

CHAPTER XIX

LAST DAYS

I saw Lord Russell from time to time between January and June 1900. He seemed to me to be in excellent form throughout that period. He was good-humoured, cheerful, genial, never irritable, and always ready to have a chat. Indeed he used to hold a sort of levee in his room at the Law Courts at luncheon-time. No man was denied. He did not care to have his chop or sole in peace. He liked to see people about him, and to talk on any topic that turned up. Repose was irksome to him.

One day after luncheon he stood with his back to the fire and his judicial robe drawn around him, a picture, I thought, of manliness, dignity, health. He was waiting for the attendant to announce that the jury were in the box. It was on this occasion that he told me the story of the throwing down of the wall enclosing a commonage at Killowen.[1] 'What struck me,' he said, 'was the calmness, the dignity of the people; there was no speeching, not a word; they waited patiently and quietly until the landlord arrived upon the scene, and then——' [At this point the attendant entered and said, 'My Lord, the jury have come in.' Russell took not the

[1] *Ante*, p. 31.

least heed of the interruption, but went on] '—threw down the wall. What struck me was the silence of the people and (with a slight oratorical wave of the hand) their action.' He then strode off to his Court. I followed, and could not help smiling as I saw him taking his place with judicial gravity, and every one rising to receive him, when I thought of the absolute relish with which, a moment before, he had been telling me the story of 'lawlessness' at Killowen in the days of his youth. Russell liked action: he hated speeches.

We often discussed Irish politics. He was as keen on the subject as ever. He reminded me that he had always been of opinion that local government should come before Home Rule, and said that the Irish Local Government Act would clear the way for the establishment of an Irish Parliament. The English would grant Home Rule, not because they liked it, but because their necessities would make it inevitable. The Imperial Parliament was overworked; there was bound to be a devolution of business on a large scale which would possibly embrace Scotland and Wales as well as Ireland. There would not, probably, be a recognition of Ireland's special national claims, but there would be a recognition of the fact that the work of the Empire could not be effectively done without some such devolution of legislative functions.

He thought that the Irish Nationalists made a mistake in showing hostility to the Empire. The Empire was as necessary to Ireland as Ireland was to the Empire. What would Irishmen do but for the career which the Empire opened up to them? I said that Irishmen who served the Empire rarely served Ireland. As was his

wont, when anything unexpected was said which impressed him, he stopped, looked steadfastly at me with his eyes opened very wide, and said, 'But is that so?' I rejoined: 'Take the Imperial Irishmen of this century, from Castlereagh and Wellington to our own time; they have all been out of sympathy with the people. Nothing that has been done for Ireland has been done by the Imperial Irishman.'

Russell: 'Ha! I suppose you look upon me as an old Whig?'

I said 'No,' but that I was generally regarded as an old Whig myself. At this he laughed and said, 'Well, I suppose if I am bracketed with you I must be satisfied. But, my friend, to come back to the point, a great change has come over the feelings of the people of this country towards Ireland—a fact which I never can get you to recognise. They see that they have made a mess of the government of Ireland, and that Ireland is a scandal and an injury to them. If they were once satisfied that Home Rule would not be used against them, I am satisfied they would grant it, and let us manage our own affairs, which we could do very much better than they. But is it reasonable to expect that they will give us Home Rule when we show that we are their enemies?' I said it certainly seemed most unreasonable, but that it was to unreason that the English always yielded in dealing with Ireland.

Russell: 'My friend, that is going back to the old question.'

I said, 'Remember Gladstone's speech.'

The Chief: 'Oh! I know, the Clerkenwell——'

'No,' I said, 'the speech on the Land League.'

The Chief: 'What speech?'

I replied : 'He said in 1881 that crime dogged the footsteps of the League, and in 1893 he admitted that there would have been no Land Act if there had been no Land League.'

The Chief said nothing. He looked steadfastly at his plate, and went on with his sole.

I said, 'Isn't that an extraordinary commentary on English rule in Ireland?'

The Chief: 'What?'

I said, 'The Prime Minister of England declares that an important measure of reform would not have been carried but for an organisation whose footsteps were marked with crime.'

The Chief: 'Ha!'

I said, 'Well, now, Chief, I have made a good point this time.' At this he laughed and said, 'Well, no matter, my friend ; my position—which you will not see—is based on the fact that there is now a great change in the feelings of the people of this country towards Ireland. Look at the Irish Local Government Act. The Government of Lord Salisbury passed that measure—a sweeping measure—without, mark, any remarkable pressure from the Irish parliamentary party. Does not that impress you?'

I said that the Irish Local Government Act was the 'backwash of the Parnell movement.' It was the price which the Tories had to pay for Unionist support : that we really owed it to Parnell.

Russell (rapidly) : 'Well, well, well, no matter ; there it is, and it is a great fact ; that Lord Salisbury should have passed that measure is a great fact.'

I admitted that a generation which had seen Lord

Salisbury pass the Irish Local Government Act might see anything.

Russell: 'Just so. On my word, I often think that we shall get Home Rule from the Tories. Remember that the Tories gave us Catholic emancipation. Never mind' (at a gesture from me) 'how or why they gave it to us. They did give it. They have now given us Irish Local Government, which is the complement of Catholic emancipation; why should they not give us Home Rule, which would only be the complement of Local Government?'

We occasionally talked about the war in South Africa. One day he sat after luncheon, resting his head on his hand, and looking dreamily out of the window. 'I wonder,' he said, thinking rather aloud, than speaking to me, 'I wonder if this is the beginning of the end?' I was surprised, and did not feel sure that I had quite caught his meaning. 'What end?' I asked. He turned full round on the chair and, looking steadfastly at me, replied, 'The end of this Empire.' I said nothing. He went on: 'Remember, they have gone into this war without in the least reckoning what it meant. I am not discussing the question of the causes of the war; I am simply dealing with the fact that our Government went into this war without, apparently, realising the difficulties, and the dangers which were ahead, and I doubt if they realise these dangers yet; dangers in Cape Colony, dangers with the Dutch population throughout South Africa' (a pause). 'These people will not submit easily. How are they to be kept down?' I said, 'Conscription?'

The Chief: 'Ha!' and at a summons from the attendant he rose suddenly and walked off to his Court.

I called on him the day that Lord Roberts's army had entered the Transvaal. I found him reading the *Times*. 'This war,' he said, 'began in October 1899, and they have only now entered the Transvaal—not a performance to be very proud of; and I observe that the newspapers now congratulate themselves when no fresh disaster has to be announced' (moving from the chair on which he sat at luncheon to the chair opposite, where he sat afterwards). 'It is a pitiful business. The war was begun without forethought or knowledge; and I am bound to say no remarkable ability has been shown in the way it has been carried on.' I said, 'Roberts and French have done well.'

The Chief: 'Yes, but do you think we are near the end now? I am afraid people in this country think we are. No man can see the end of this business. Those Boers love the independence of their country and are fighting for it: and it is that very love of independence—which I am afraid the people here do not realise—that will make all our difficulties later on.'

I have found among Russell's papers a letter written to him on October 18, 1899, by a Liberal politician of Cabinet rank, in which the writer says:

I have always disbelieved in war, though I have been quite certain that it was the one issue desired by the Cape English.

On December 29 Russell wrote to Sir Edward Fry:

What a terrible business this war is, and what ignorance of the forces and difficulties to be met!

On March 4, 1900, he wrote again:

What a sad business this war is! And what makes it worse in my mind is the fact that one does not feel assured we are wholly in the right, and that it might have been avoided.

In talking to Russell about his law cases I found that the earlier cases interested him most. He seems to have thought that his greatest triumphs were Wilberforce *v.* Philp, and Chamberlayne *v.* Barnwall. In the last list of cases I gave him, I had put down the Whalley will case, Wood *v.* Cox, Wood *v.* Durham, and Chetwynd *v.* Durham; and it was arranged that we should talk about them after the vacation. We never did talk about them. We never met again.

On July 4 there was a dinner-party at his house in Cromwell Road. Those who were present said they had never seen him look better than he did that night.

Next morning he was up early, and rode around to Marloes Road to see his grandchildren, Jack, Charlie, and Eveleen Holms. He remained some time with them, then returned to Cromwell Road, and at 11 A.M. left Euston for his Circuit in North Wales in, to all appearances, excellent health and spirits. He arrived at Newtown (Montgomery) at 4 P.M., and later in the evening took a drive for a couple of hours with his marshal, Lord Tiverton.

On the 6th the Commission was opened. It was a maiden assize, and the Chief Justice was presented with a pair of white gloves by the High Sheriff. In charging the Grand Jury he said:

You will observe that I have just been made the recipient of a pair of white gloves, presented to me by the High Sheriff. That circumstance is particularly gratifying to

me on the occasion of my first judicial visit to this county. It means that there are no cases of a criminal nature to be investigated by you—a fact in the highest degree creditable to the character of your county and a circumstance which cannot fail to be gratifying to yourselves, who take such a large and important part in the administration of justice throughout the county. I am glad to note, having had an opportunity of conferring with your chief constable, that the record which I have examined, going back for a number of years, shows that at no time during that period has the list of crime been at all of a considerable character. For the last five or six years it has been steadily on the decrease, and the last record, bringing it down to the present time, shows that the decrease is continuous and that crime has reached the lowest possible point. I congratulate you upon this state of affairs. It has therefore become a mere ceremony your being sworn as the grand jury to-day ; but, although a ceremony on this occasion, it is one not without its significance, because by the law of the land it is still, subject to certain statutory restrictions, within the power of any of the Queen's subjects to prefer any indictment for your consideration ; but I have no reason to apprehend that any such bill will be sent up to you by any one. The officer of the Court has had no information of that kind, and therefore, while expressing my regret that for practically a mere ceremonial purpose you have been put to the inconvenience of attending, I do not doubt that that inconvenience will be mitigated by the gratifying circumstance that your county holds so high a record. You are now discharged.

The Court was up at 11.15 A.M., and about 1 P.M. the Chief and Lord Tiverton drove to Welshpool, where they lunched at the Oak Hotel with the High Sheriff, afterwards visiting Powis Castle, and returning to Newtown in the evening.

On the 7th he had arranged to post to Dolgelly (Merioneth) *via* Dinas, Mawddwy, and Llanbrynmair, but the morning turned out so wet that the plan was abandoned, and he went instead by train, arriving about 3 P.M. Afterwards he drove with Lord Tiverton to Barmouth. At Dolgelly, on July 9, he received another pair of white gloves; and next day presided at the Conference of the Welsh Archæological Society, when Professor Rhys read a paper on the 'Folklore of Wells and Lakes in Carnarvonshire.' Russell, in proposing a vote of thanks to Professor Rhys, said:

I have now the pleasure of proposing a vote of thanks to Principal Rhys for his very interesting paper. It has been truly said by Professor Williams that it is a paper full of recondite learning—not the acquirement of a day or a year, but of many years. I am sorry that I am not able to address any criticism on the subject dealt with, although I come from a country referred to several times by the Principal—a country which is certainly full of legendary lore—and I was particularly struck by the truth (verified by my own observations) of the remark of Principal Rhys, namely, that in Ireland the extraordinary properties that are said to attach to particular places, and to water in particular wells, have almost invariably been ascribed to Christian times. It was patent to every one who has the least superficial knowledge of wells supposed to be possessed of healing merit that the name of a saint is always attached to the well, and that the health-giving properties of the water is supposed to be derived, by supernatural agency of course, on the instance of the saint. That is the tenor and tone about these wells in Ireland. Although not able to appreciate to the full the objects of interest in the paper, I think I appreciate sufficiently to recognise the part that such research plays in our day.

To begin with, it is something, in an age essentially material—in a pushing, struggling, dusty age such as ours is—to be able to dwell upon elements which, for the time at least, relieve the dull material surrounding under which we live and carry our lives back to ancient days. And after all archæology—which is but a fragment of the subject—archæology is nothing but an endeavour to ascertain the truth as to the history of bygone times. It has been said, 'High-souled nations, destined to be great, honour their sires and reverence the past' You seem in this favourite locality to be richly endowed. As I say, I cannot appreciate to the full the character of the endowments referred to by the Principal, but any one who pays a casual visit to your neighbourhood cannot fail to behold how lavish Providence has been in its great natural gifts to you who live and belong to this place.

On July 11 he left Pwllheli at 7 A.M., driving to Carnarvon, where he arrived about 9 A.M. He then breakfasted, and took his seat in Court at ten o'clock.

On the 12th the business at Carnarvon was over. The 13th was a free day, and the Chief drove, after breakfast, to the Llanberis quarries. At one o'clock he lunched with Mr. Farren at the Royal Hotel to meet the Welsh Archæological Society. In the afternoon he went to see Carnarvon Castle, and, later on, paid a visit to Father Jones, the Catholic priest of the district.

'A few days ago,' wrote Father Sheehan, the author of 'My New Curate,' to Father Russell, 'one of our priests was travelling in North Wales, and came across the footsteps of the Lord Chief Justice. In one case the old priest at Carnarvon told him with enthusiasm how Lord Russell, a few days before, had clambered up to his eyrie, had asked for confession, and had left 2*l.* for

the mission. He was at Mass and Holy Communion next morning.'

There was no sign of illness all this time. He seems to have enjoyed himself thoroughly, and to have spent a very pleasant time among the Welsh people. On the 13th he wrote to his daughter Lilian :

My dear Child,—I am really sorry it did not suit your mother's arrangements or yours and Margaret's to come with me on Circuit. I am sure each of you would have enjoyed this beautiful country, full of places of interest. The people too remind me greatly of Irishmen, and nothing can exceed the kindness of all with whom we come in contact. We have excursions organised for us every day we can spare, and boats and carriages placed everywhere at our disposal. To-day we are driving to Llanberis, starting at 9 A.M., and we are entertained at luncheon here to meet the Welsh Archæological Society. To-morrow we sail from this up the Menai Straits and under the Menai Bridge. You will perhaps recollect this beautiful spot when *en route* for Holyhead. The next time I go on this Circuit I must insist on some of you coming.

Love to your mother and Margaret,

My dear child,

R. of K.

On the 14th he sailed in a steam launch from Carnarvon to Bangor. From Bangor he drove to the Penrhyn quarries, returning through Penrhyn Park, and then sailing in the steam launch to Beaumaris.

On Sunday, the 15th, he attended Mass at 'Father Davies' Chapel' in Beaumaris at 10.30 A.M., and afterwards went for a drive in Sir Richard Bulkeley's motor-car.

'At Beaumaris,' wrote Father Sheehan, 'the Lord

Chief Justice of England was seen coming up from the congregation and proffering his services as acolyte to a newly-ordained priest. He was recognised, and it occasioned quite a sensation. These little traits affect one more deeply than all his great forensic and intellectual triumphs.'

Of this Beaumaris incident he himself wrote to Lady Russell:

There is no church at Beaumaris, but Mass is said by an abbot from Holyhead in a house. Several of the local militia attend, and the Mass was served by a convert lieutenant, whose Latin, however, being shaky, I was requested to make the responses, and I did.

On the 16th the Commission was opened at Beaumaris, and the Chief Justice received another pair of white gloves.

On the 17th he drove to Llanfair to visit an old church and to see a miraculous spring of water.

Writing afterwards to Lady Russell he said:

We had several very interesting drives. One of the most interesting is to an old church ruin dating at the time of St. Beas (I am not sure of the spelling), where there is a holy water font carved out of one of the walls, in which there is always water in the very dryest time, although it is never replenished.

On the 17th he left Beaumaris for Bangor, afterwards proceeding to Ruthin.

On the 18th he opened the Commission at Ruthin and sat in Court from 10.30 A.M. to 3.15 P.M. Afterwards he went for a drive. On returning he felt a little unwell—some trifling stomach disorder apparently—and saw a doctor.

On the 19th he was 'much better,' sat in Court from 10 A.M. until 3 P.M., and afterwards drove to Ruthin Castle with Mr. Cornwallis West.

On the 20th he remained quietly at Ruthin until about 4.30 P.M., when he and Lord Tiverton drove to Mold.

On the 21st he 'sat' at Mold and finished the work by 1 P.M. At 3.45 P.M. he left for Chester.

On Sunday the 22nd he drove to Hawarden and called upon the Rev. Stephen Gladstone. On the following day he drove to Eaton Hall to see the stud. That evening he again felt unwell, and consulted Dr. Dobie.

On Tuesday the 24th the Commission was opened at Chester. On the 25th, at 1 P.M., the criminal work was finished, when the Chief delivered what turned out to be his last public utterance. He said: 'As this is the last town on the North Wales Circuit, I think it right to make one public observation. It is a matter which, I think, has attracted public attention that observations for some time have been made about Welsh juries and Welsh witnesses, observations which were not of a complimentary character. My experience of Welsh witnesses has not been different from my experience of other witnesses in any other parts of the country, and, as regards the juries, I think that, according to my experience, I am justified in saying that I could not desire more intelligent juries than those who have come before me. It is the exact truth to say that I agree with every verdict the juries have given upon that Circuit, with one exception, and that particular case was heard at Carnarvon. I myself should have arrived at a different verdict to that of the jury, but in connection with the

case I will add that the circumstances were of a very extraordinary and exceptional character, and I thought then, and still think, that it was quite possible for intelligent, independent-minded men to arrive at the conclusion which the jury arrived at. I think it advisable to make this statement of my personal experience of the North Wales Circuit.'

At 1.55 P.M. he left Chester for London to attend a dinner which was to be given at the Middle Temple Hall on the following day to some members of the American Bar. Before leaving Chester he wrote—Sunday the 22nd—to Lady Russell :

I am glad you are going to Tadworth on Tuesday. I am not without hope that I shall be able to get up to town on Wednesday night, in which case I shall go straight to Tadworth, and be able to remain over Thursday, going up to town on Friday to the legal banquet, and returning to Circuit to Swansea on Saturday. When I get back from Circuit, I intend to try to get a couple of days at Cowes. I have been in the doctor's hands in a mild way ; a chill, and I am on milk diet at present ; but generally I am well.

On Wednesday afternoon, the 25th, he reached Tadworth. Lady Russell had not yet arrived from London. When she came, later on, she found him standing on the doorsteps watching for her. She was at once struck by the change in his appearance. He had left London, apparently, in robust health. He had come back looking very ill indeed. Lady Russell exclaimed, ' What has been the matter with you ? You look ill ; you must go to bed and have a rest.' He made light of the matter, saying that he had been living on milk diet and felt low, but

that he would be soon all right again. That evening they were alone. All the children were from home. The Chief took a light dinner—a little sole, and milk pudding. Afterwards he and Lady Russell sat chatting in the hall until ten o'clock. He talked about his work on Circuit, and about his excursions in Wales. One of the judges had said that the Welsh witnesses were 'liars.' He resented this accusation as strongly in his conversation with Lady Russell, as he had resented it in his address at Chester. He repeated that he had found the Welsh witnesses intelligent and truthful, and the juries intelligent and painstaking. At ten o'clock he retired to rest.

On Thursday morning he was no worse; on the contrary, perhaps a shade better. He walked about the grounds as usual, and said he thought he would take a drive. Lady Russell dissuaded him from this, saying he had better keep quiet for the day.

On Friday morning he was not so well. He had had a bad night, and felt sick and distressed. Yet he got up, and said he would go to London and attend the American Bar dinner. Lady Russell, however, urged him to see a doctor, and to do exactly what the doctor bade. This he promised. On arriving in London he saw Dr. Stephen Mackenzie, who advised him not to go to the dinner. He did not go, but remained in London for the night. On Saturday he returned to Tadworth. There were some people down from Saturday to Monday. He, however, dined by himself, and went to bed early. On Sunday Dr. Mackenzie—who was staying at Leatherhead—called to see him, and had a consultation with the local man, Dr.

Colthard. There seemed, at that time, to be nothing alarming about his symptoms. He got up, came down stairs, played Bridge with some of the guests, and went to bed early. On Monday he was much worse, and remained in bed all day. On Tuesday a certificated nurse was engaged. On Wednesday, August 1, he was very sick, and refused nourishment; yet he did not apparently take a gloomy view of his case, and was still making plans for his visit to Cowes.

On August 2 it was resolved to call in Sir William Broadbent; and on the 3rd there was a consultation between him and Dr. Mackenzie and Dr. Colthard, when it was decided that Lord Russell should go to London next day.

On Saturday the 4th he left for London. Whether he then realised the gravity of his state I do not know. He was weak and low; but patient and uncomplaining, thinking rather of others than himself.

On Sunday he asked to see a priest; and on Monday made a general confession to Father Tyrrell of Farm Street. Late that night Dr. Habershon was called in by Dr. Michael Verdon, the friend as well as the London physician of the family. On Tuesday he was very ill, and, for the first time, downhearted. 'I am weary unto death,' he said. On Wednesday there was a consultation attended by Sir William Broadbent, Dr. Habershon, Dr. Mackenzie, and Dr. Verdon. The advisability of an operation was discussed, and it was decided to hold another consultation next day, and to ask Mr. Treves to attend.

In the forenoon of Thursday the doctors met again, and it was decided that Mr. Treves should perform an

operation that evening at half-past six. 'You are my last hope, Mr. Treves,' said the Chief.

He requested the surgeon to prepare a diagram showing the nature of the operation. He looked over this diagram with Mr. Treves, asked many questions, tapped the paper with his glass, as was his wont, and sought all information that could be given to him. Afterwards he expressed a wish to receive extreme unction before the operation was performed, and Father Basevi of the Oratory came and administered the last rites of the Church. The Chief asked Lady Russell to help him to make the responses, saying he felt his voice very weak. But as a fact he answered clearly and distinctly, and when the priest told him to make an act of contrition he began at once to say aloud the old familiar prayer which he had learned at his mother's knee, 'Oh, my God, I am heartily sorry that I have offended Thee, and I detest my sins most sincerely because they are displeasing to Thee.'

On Thursday evening the operation was successfully performed, and the patient seemed to have borne it well. Throughout the night the Chief remained in a broken slumber, half sleeping, half waking. Towards morning the patient grew a little more uneasy and restless; yet there were no alarming symptoms. . . . Then a change appeared in the face. The Shadows had fallen suddenly: the Night was quickly closing in. The end was near. It had come swiftly. And as the dawn broke, with his wife and children praying by his side, and, on his lips the words, 'My God, have mercy upon me,' Charles Russell passed away, dying, as he had lived, full of courage and full of hope.

APPENDICES

APPENDIX A.

Report of Special [Parnell] Commission : Conclusions.

We have now pursued our inquiry over a sufficiently extended period to enable us to report upon the several charges and allegations which have been made against the respondents, and we have indicated in the course of this statement our findings upon these charges and allegations, but it will be convenient to repeat seriatim the conclusions we have arrived at upon the issues which have been raised for our consideration.

I. We find that the respondent Members of Parliament collectively were not members of a conspiracy having for its object to establish the absolute independence of Ireland, but we find that some of them, together with Mr. Davitt, established and joined in the Land League organisation with the intention by its means to bring about the absolute independence of Ireland as a separate nation.

II. We find that the respondents did enter into a conspiracy by a system of coercion and intimidation to promote an agrarian agitation against the payment of agricultural rents, for the purpose of impoverishing and expelling from the country the Irish landlords who were styled the 'English Garrison.'

III. We find that the charge that 'when on certain occasions they thought it politic to denounce, and did denounce, certain crimes in public, they afterwards led their supporters to believe

such denunciations were not sincere ' is not established. We entirely acquit Mr. Parnell and the other respondents of the charge of insincerity in their denunciation of the Phœnix Park murders, and find that the ' facsimile ' letter on which this charge was chiefly based as against Mr. Parnell is a forgery.

IV. We find that the respondents did disseminate the *Irish World* and other newspapers tending to incite to sedition and the commission of other crime.

V. We find that the respondents did not directly incite persons to the commission of crime other than intimidation, but that they did incite to intimidation, and that the consequence of that incitement was that crime and outrage were committed by the persons incited. We find that it has not been proved that the respondents made payments for the purpose of inciting persons to commit crime.

VI. We find, as to the allegation that the respondents did nothing to prevent crime and expressed no bona-fide disapproval, that some of the respondents, and in particular Mr. Davitt, did express bona-fide disapproval of crime and outrage, but that the respondents did not denounce the system of intimidation which led to crime and outrage, but persisted in it with knowledge of its effect.

VII. We find that the respondents did defend persons charged with agrarian crime, and supported their families, but that it has not been proved that they subscribed to testimonials for, or were intimately associated with, notorious criminals, or that they made payments to procure the escape of criminals from justice.

VIII. We find, as to the allegation that the respondents made payments to compensate persons who had been injured in the commission of crime, that they did make such payments.

IX. As to the allegation that the respondents invited the assistance and co-operation of and accepted subscriptions of money from known advocates of crime and the use of dynamite, we find that the respondents did invite the assistance and co-operation of and accepted subscriptions of money from Patrick Ford, a known advocate of crime and the use of dynamite, but

that it has not been proved that the respondents or any of them knew that the Clan-na-Gael controlled the League or was collecting money for the Parliamentary Fund. It has been proved that the respondents invited and obtained the assistance and co-operation of the Physical Force Party in America, including the Clan-na-Gael, and, in order to obtain that assistance, abstained from repudiating or condemning the action of that party.

There remain three specific charges against Mr. Parnell, namely:

(*a*) 'That at the time of the Kilmainham negotiations Mr. Parnell knew that Sheridan and Boyton had been organising outrage, and therefore wished to use them to put down outrage.'

We find that this charge has not been proved.

(*b*) 'That Mr. Parnell was intimate with the leading Invincibles, that he probably learned from them what they were about when he was released on parole in April 1882, and that he recognised the Phœnix Park murders as their handiwork.'

We find that there is no foundation for this charge. We have already stated that the Invincibles were not a branch of the Land League.

(*c*) 'That Mr. Parnell, on 23rd January 1883, by an opportune remittance enabled F. Byrne to escape from justice to France.'

We find that Mr. Parnell did not make any remittance to enable F. Byrne to escape from justice.

The two special charges against Mr. Davitt, viz.: (*a*) 'That he was a member of the Fenian organisation, and convicted as such, and that he assisted in the formation of the Land League with money which had been contributed for the purpose of outrage and crime'; (*b*) 'That he was in close and intimate association with the party of violence in America, and was mainly instrumental in bringing about the alliance between that party and the Parnellite and Home Rule Party in America'; are based on passages in the *Times* leading articles of the 7th and 14th March 1887. 'The new movement was appropriately

started by Fenians out of Fenian Funds; its "father" is Michael Davitt, a convicted Fenian.' 'That Mr. Parnell's "constitutional organisation" was planned by Fenian brains, founded on a Fenian Loan, and reared by Fenian hands.'

We have shown in the course of the report that Mr. Davitt was a member of the Fenian organisation, and convicted as such, and that he received money from a fund which had been contributed for the purpose of outrage and crime, viz., the Skirmishing Fund. It was not, however, for the formation of the Land League itself, but for the promotion of the agitation which led up to it. We have also shown that Mr. Davitt returned the money out of his own resources.

With regard to the further allegation that he was in close and intimate association with the party of violence in America, and mainly instrumental in bringing about the alliance between that party and the Parnellite and Home Rule Party in America, we find that he was in such close and intimate association for the purpose of bringing about, and that he was mainly instrumental in bringing about the alliance referred to.

ALL WHICH WE HUMBLY REPORT TO YOUR MAJESTY.

JAMES HANNEN.
JOHN C. DAY.
ARCHIBALD L. SMITH.

HENRY HARDINGE CUNYNGHAME, *Secretary.*
Royal Courts of Justice, 13th February 1890.

APPENDIX B.

(*Mayor and Corporation of Salford v. Lever* (1891). *L.R.* 1891, 1 *Q.B.* 168; 60 *L.J. Q.B.* 39; 63 *L.T.* 658; 39 *W.R.* 85; 7 '*Times*' *Rep.* 18.)

Head Note.—When one party to a contract of sale, or any other contract, bribes the agent of the other party in respect of the contract, the party whose agent has been bribed has a right

of action (1) against his agent for damages for fraud and for return of secret profits (the amount of the bribe), and (2) against the other party who has bribed the agent for damages for fraud, in which action he will recover whatever pecuniary loss has been occasioned to him through the fraudulent dealing with his agent. These rights of action against two persons are not alternative, but may be both separately pursued in respect of the same transaction.

The plaintiffs employed H. as manager of their gas-works, and it was part of his duty to examine and report on tenders for the supply of coal. The defendant, who was a coal merchant, induced H. to accept his tender of coal by an offer of a secret commission of 1*s.* a ton on the coal purchased from him and recouped himself by adding 1*s.* to the price of every ton charged to the plaintiffs. By the transactions in coal which took place the plaintiffs paid about 2,329*l.* in excess of what they would have paid had it not been for the secret arrangement about commission. H. received similar secret commissions from other coal merchants. When they found out the frauds that had been practised upon them, the plaintiffs brought an action against H. to recover the moneys he had received as secret commissions, but for their own reasons they allowed this action to stand over and sued the coal merchants instead under an agreement with H. that he was to give them full assistance, and guarantee the recovery of at least 10,000*l.* from the coal merchants, depositing securities with bankers to cover that amount. It was also agreed that on receipt by the plaintiffs of 10,000*l.*, together with costs and expenses, whether as the result of the actions or paid under the guarantee of H., the latter was to be discharged from all liability. In pursuance of that agreement actions were brought against some coal merchants, and 4,000*l.* recovered. Then came the action against Lever for 2,329*l.* as money obtained from the plaintiffs by fraud, or, alternatively, as money wrongfully detained by the defendant. The defendant set up in his defence that he and H. were joint wrong-doers, that the agreement between the plaintiffs and H. amounted to payment and satisfaction in respect of the wrong

of H., and, consequently, also payment and satisfaction in respect of his (Lever's) wrong. The Court was not satisfied with the validity of the agreement, but, supposing the agreement to be a valid satisfaction in respect of the wrong of H., it held that such was no bar to the action against Lever, which was an action in respect of a separate wrong. Verdict and judgment were for the plaintiffs for the full amount claimed. There was an unsuccessful application in the Queen's Bench Division for a new trial, when Mr. Justice Charles said:—[1]

'Their right against Lever was to recover the excess price he had received over the market price, either as damages for the fraud he had committed jointly with Hunter, or, if the excess price had been exactly ascertained before action, as money received for the plaintiffs' use. Their right against H. was to recover from him the bribe or commission which had actually been paid, and is based upon the well-known and frequently enunciated rule that no agent shall make a secret profit for himself in any transaction he conducts for his principal (Parker *v.* McKenna; Emma Silver Mining Company *v.* Grant).

'It is the latter right which they have compounded for with H., and the arrangements which they have thought fit to make with him cannot, in our opinion, be treated as payment or satisfaction of the tort which Lever has committed.'

This decision was confirmed in the Court of Appeal, when Lord Esher, Master of the Rolls, in his judgment said: 'H., their agent, had received money from the defendant for the performance of a duty which he was bound to perform without any such payment. Nothing would in law be more fraudulent, dangerous, or disgraceful, and therefore the law has struck at such conduct in this way. It says, that if an agent takes a bribe from a third person, whether he calls it a commission or by any other name, for the performance of a duty which he is bound to perform for his principal, he must give up to his principal whatever he has by reason of the fraud received

[1] *L.R.* 25, Q.B. 372.

beyond his due. It is a separate and distinct fraud of the agent. He might have received the money, without any fraud, of the person who was dealing with him. Supposing that person thought that the agent was entitled to a commission, he would not be fraudulent, but the agent would be, and it is because of his separate and distinct fraud that the law says he must give up the money to his principal. It signifies not what it may be called—whether damages or money had and received—the foundation of the claim of the principal is that there is a separate and distinct fraud by his agent upon him, and therefore he is entitled to recover from the agent the sum which he has received.' But does this prevent the principal from suing the third person also, if he has been fraudulent, because of his fraud?

APPENDIX C.

The Tribute of the Bar.

On October 24, 1900, the Attorney-General (Sir R. Finlay), speaking in the Court of the Lord Chief Justice, said: 'It is, as yet, difficult to speak of [Lord Russell of Killowen], particularly in the Court where one still seems to see his form, and his glance, and which still seems to echo his voice. In him we have lost a consummate advocate, a great judge, and a true friend. The Bar recognise that in him we had, perhaps, the most commanding personality that has ever adorned our great profession. By common consent no one was more desired as a colleague or more dreaded as an antagonist. His forensic eloquence recalls what was said of the greatest orator and advocate of all time—that his dominant characteristic was reason penetrated, and made red hot by passion. He commanded success alike by the magnetic force of his personality, by the brilliance of his intellect, and by that capacity for taking pains, in which he was hardly, if ever, surpassed. Possibly the splendour of his fame as an advocate has to the general public somewhat obscured his great eminence as a lawyer; but all who had the best opportunities of observa-

tion know that in grasp of legal principles he had few rivals, and that the legal arguments which he addressed, whether to courts of law or of equity, were as admirable as those speeches at *nisi prius* by which he is more widely known. When he left the Bar for the Bench no one who even casually saw him at work as a judge could fail to be impressed by the combination of power and dignity—dignity which was but the appropriate embodiment and expression of great powers concentrated on the great task of getting at the truth. On the Bench, as at the Bar, Lord Russell never grudged any time or any labour necessary to enable him to master all the ramifications of fact and all the problems of law which the case presented. If he had not the opportunity of leaving upon our jurisprudence traces as deep as some of his great predecessors, that was due solely to the changed conditions of the system of legal administration under which it was his lot to work. His powers found a worthy field for their exercise in the long list of grave cases with which his name will be associated in the history of our civil and our criminal law, and in the still wider domain of the law of nations and of international arbitration. England will long have reason to remember with gratitude that in the Behring Sea arbitration it had the advantage of the services of so brilliant an advocate, and that on the tribunal which settled the Venezuelan controversy there sat one so distinguished for judicial capacity and judicial fairness as Lord Russell of Killowen. Of Lord Russell in private life and as a friend I find it difficult, if not impossible, to speak. He was simple with the simplicity of great and kindly nature. There never was a man more thoroughly genuine. He seemed what he was, and he said what he meant. He was most loved by those who knew him best, and no one who knew him can ever forget him.'

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